

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Date of hearing: 11 November 2009

Defendants: Dr CHEN Meng Hua (陳萌華醫生)
Dr TAW Jin Liam (杜仁廉醫生)

1. The charges alleged against Dr CHEN Meng Hua and Dr TAW Jin Liam are that:

“In or around 2007 and 2008, they, being registered medical practitioners, disregarded their professional responsibility in that they instigated, sanctioned, acquiesced in or failed to take adequate steps to prevent the dissemination of exaggerated information to the public by Healthmax Cancer Clinic Limited (“Clinic”) –

- (a) in the advertisement or article posted on the Oriental Daily on or around 19 July 2007 regarding the professed result of treatment provided by the Clinic on liver cancer ;
- (b) in the advertisement or article posted on the Oriental Daily on or around 6 August 2007 regarding the professed result of treatment provided by the Clinic on lung cancer ;
- (c) in the advertisement or article posted on the Apple Daily on or around 7 September 2007 regarding the professed result of treatment provided by the Clinic on breast cancer ;
- (d) in the advertisement or article posted on the Oriental Daily on or around 10 October 2007 regarding the professed result of treatment provided by the Clinic on cervical cancer ;
- (e) in the advertisement or article posted on Sing Tao Daily, Ming Pao, Apple Daily and the Sun as well as disseminated through the website (www.on.cc) in or around January 2008 regarding the

professed result of treatment provided by the Clinic on liver cancer.

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

Facts of the case

2. At all material times, Dr. Chen was a Registered Medical Practitioner and a Registered Specialist in Pathology in Hong Kong.
3. At all material times, Dr. Taw was a Registered Medical Practitioner and a Registered Specialist in General Surgery in Hong Kong.
4. Healthmax Cancer Clinic Limited (“Clinic”) was at all material times a private company limited by shares and incorporated under the Companies Ordinance carrying on business situated at Room 910A, Champion Building, 301-309 Nathan Road, Kowloon.
5. At all material times, Dr. Taw held 5,000 of the 99,999 issues shares in the Clinic.
6. Dr. Taw has never been a director or an officer of the Clinic.
7. At all material times, Dr. Chen was one of the two directors of Clinic She was also one of the two directors of (and held 2 out of 3 issued shares in) a Hong Kong registered company called Max Grain Investment Limited which in turn held 45,000 of the 99,999 shares in the Clinic.
8. On 1 October 2008, after receiving the notice of complaint from the Preliminary Investigation Committee, Dr. Chen resigned as a director of the Clinic.
9. The Clinic posted an advertisement featured in the Oriental Daily on 19 July 2007 featuring the professed result of treatment on liver cancer.
10. The Clinic posted an advertisement in the Oriental Daily on 6 August 2007 featuring the professed result of treatment on lung cancer.
11. The Clinic posted an advertisement in the Apple Daily on 7 September 2007 featuring the professed result of treatment on breast cancer.

12. The Clinic posted an advertisement in the Oriental Daily on 10 October 2007 featuring the professed result of treatment provided on cervical cancer.
13. In January 2008, the Clinic disseminated an advertisement on Sing Tao Daily, Ming Pao, Apply Daily, the Sun and through the Oriental Daily website (www.on.cc) featuring the professed result of treatment on liver cancer.
14. It is agreed that the information disseminated in the advertisements referred to in paragraphs 9 to 13 above was exaggerated.
15. These facts are agreed by the Defence and the Legal Officer.

Dr. Taw Jin Liam

16. In his evidence, Dr. Taw maintained that he was given the 5% shares (5000 of the 99,999 issued shares of the Clinic) as a gift by a grateful patient who was starting a new company to help cancer patients. Dr. Taw did not care to find out more about the company and he had never visited the Clinic.
17. His evidence is contradicted by the evidence of Ms. Chan Siu Fan Pan Pan. Ms Chan said that the name cards displayed at the Clinic included those of Dr. Taw Jin Liam, and upon questioning, the clinic staff confirmed that Dr. Taw was working in the Clinic and would be available on appointment to provide medical treatment.
18. We reject his evidence.

Findings of Council in respect of Dr. Taw Jin Liam

19. Having considered all the evidence, we are satisfied that at all material times Dr. Taw held 5% shares (5000 of the 99,999 issued shares) and worked in the Clinic.
20. On reading the leaflet that was obtained by the witness Ms. Chan Siu Fan Pan Pan, it is evident that the Clinic provided an integrated service for cancer patients which included surgical, medical and traditional Chinese medical care. Given the

contents of this leaflet, we are satisfied that Dr. Taw should have reasonably foreseen that the Clinic would advertise its services to the public.

21. In claiming no involvement in or knowledge of the Clinic's operations, Dr. Taw disregarded his responsibility to exercise due diligence to ensure that the nature and contents of the organization's advertising conforms to the principles and regulations set out by the Medical Council of Hong Kong.
22. Doctors who have any kind of financial or professional relationship with an organization providing medical services to the public bear responsibility to ensure that the organization's advertising conforms to the principles and regulations set out by the Medical Council of Hong Kong. All such doctors must therefore make it their responsibility to acquaint themselves with the nature and content of the organization's advertising, and must exercise due diligence to ensure that the organization's advertisements conform to the principles and regulations.
23. The advertisements featured in the charges are not only exaggerated claims but also misleading and may be harmful to patients. For example, the wrong information provided in the advertisement posted on the Oriental Daily on or around 10 October, 2007 regarding the professed result of treatment provided by the Clinic on cervical cancer might defer women from seeking proper investigations and treatments for their conditions and thereby increase the risk of developing cervical cancer.
24. We are satisfied that the conduct of Defendant Dr. Taw Jin Liam has fallen far short of the standard expected amongst registered medical practitioners. We are satisfied that his conduct constitutes professional misconduct. We find him guilty of charges (a) to (e).

Dr. Chen Meng Hua

25. Dr. Chen chose not to give evidence. This is her right and no adverse inference will be drawn from it.

Findings of Council in respect of Dr. Chen Meng Hua

26. Having considered all evidence, we are satisfied that at all material times Dr. Chen was one of the two Directors of the Clinic and an indirect share holder through a company called Max Grain Investment Limited. From the business cards displayed in the Clinic including those of Dr. Chen Meng Hua, we are satisfied that she was working in the Clinic and would be available on appointment to provide medical treatment.
27. On reading the leaflet that was obtained by the witness Ms. Chan Siu Fan Pan Pan, it is evident that the Clinic provided an integrated service for cancer patients which included surgical, medical and traditional Chinese medical care. Given the contents of this leaflet, we are satisfied that Dr. Chen, as a Director of the Clinic, should have reasonably foreseen that the Clinic would advertise its services to the public.
28. Dr. Chen, being a Director of the Clinic, disregarded her responsibility to exercise due diligence to ensure that the nature and contents of the organization's advertising conforms to the principles and regulations set out by the Medical Council of Hong Kong. The fact that she resigned from the Directorship of the Clinic on 1 October, 2008 is not relevant to the Council's consideration.
29. Doctors who have any kind of financial or professional relationship with an organization providing medical services to the public bear responsibility to ensure that the organization's advertising conforms to the principles and regulations set out by the Medical Council of Hong Kong. All such doctors must therefore make it their responsibility to acquaint themselves with the nature and content of the organization's advertising, and must exercise due diligence to ensure that the organization's advertisements conform to the principles and regulations.
30. The advertisements featured in the charges are not only exaggerated claims but also misleading and may be harmful to patients. For example, the wrong information provided in the advertisement posted on the Oriental Daily on or around 10 October, 2007 regarding the professed result of treatment provided by the Clinic on cervical cancer might defer women from seeking proper investigations and treatments for their conditions and thereby increase the risk of developing cervical cancer.

31. We are satisfied that the conduct of the Defendant Dr. Chen Meng Hua has fallen significantly short of the standard expected amongst registered medical practitioners. We are satisfied that her conduct constitutes professional misconduct. We find her guilty of charges (a) to (e).

Sentencing

32. This Council has in June 2006 issued a clear warning that in future cases of practice promotion offenders should expect to be removed from the General Register for a short period with suspension of the order, and in serious cases the removal will take immediate effect. The same warning was repeated in December 2008.
33. While the charges in the present case are in relation to the dissemination of misleading information, it also has the effect of practice promotion. We have regard to the fact that the offences concerned took place before the second warning in December 2008.

Dr. Chen Meng Hua

34. The Defendant has a clear disciplinary record. We give her credit for admitting the facts of the case. Apart from this, there is no mitigating factor of weight.
35. This is not a mere case of practice promotion but dissemination of misleading information in a concerted way in a number of media. Although no evidence has been presented that harm has been caused to patients, the misleading information has the potential of doing so especially in patients suffering from a variety of cancer who are in a vulnerable state of mind.
36. Having regard to the gravity of the case and the role of Dr. Chen Meng Hua as one of the Directors of the Clinic, we order that Dr. Chen Meng Hua's name be removed from the General Register for a period of two months.
37. We have considered whether the sentence should be suspended but have concluded that this is not appropriate due to the gravity of the offence.
38. We note that Dr. Chen Meng Hua's name is included in the Specialist Register. While it is the duty of the Education and Accreditation Committee to consider

whether any action should be taken in respect to her specialist registration, we are of the view that there is no evidence which reflects adversely on her specialist competence or her suitability to remain on the Specialist Register.

Dr. Taw Jin Liam

39. The Defendant has a clear disciplinary record and has contributed to community services.
40. This is not a mere case of practice promotion but dissemination of misleading information in a concerted way in a number of media. Although no evidence has been presented that harm has been caused to patients, the misleading information has the potential of doing so especially in patients suffering from a variety of cancer who are in a vulnerable state of mind.
41. Having regard to the gravity of the case we order that Dr. Taw Jin Liam's name be removed from the General Register for a period of four months, and such removal order be suspended for a period of two years.
42. We have imposed a lighter sentence in view of Dr. Taw Jin Liam's lesser involvement in the operation of the Clinic.
43. We note that Dr. Taw Jin Liam's name is included in the Specialist Register. While it is the duty of the Education and Accreditation Committee to consider whether any action should be taken in respect to his specialist registration, we are of the view that there is no evidence which reflects adversely on his specialist competence or his suitability to remain on the Specialist Register.

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