

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Date of hearing: 13 January 2010
Defendant: Dr WANG I Sing Sandy (王翊馨醫生)

1. The charge alleged against Dr WANG I Sing Sandy is that:

“She, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of her name, title, photographs and statements in an advertisement in the 9 April 2008 issue of the publication of “Face”, in which she endorsed the product “Restylane Sub Q” offered by a company known as “變靚D”.

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

Facts of the case

2. The Defendant at all material times is a registered medical practitioner.
3. The Defendant was and is employed as a full time medical practitioner by Be A Lady (變靚 D) since 24 January 2007.
4. At the material time she was assigned by Be A Lady to work in the Mongkok Branch.
5. In February 2008, she underwent cosmetic procedures in Taiwan. These procedures were allegedly performed by her father.
6. In March 2008, Be A Lady requested the Defendant to write a short article of her experience with the cosmetic procedures done by her father and to provide pre-treatment and post-treatment photographs of her face. In addition, Be A Lady took a photograph of the Defendant shortly after she provided the article and treatment photographs to them.

7. An advertisement was published on page 81 of Issue No. 046 of FACE magazine dated 9th April 2008. The advertisement contained the four-paragraph article, albeit with some minor amendments, submitted by the Defendant to Be A Lady. It also contained the fore-mentioned photograph of the Defendant that was taken by Be A Lady and pre-treatment and post-treatment photographs provided by the Defendant. The advertisement was entitled “Sub Q for improvement on face shape”. It contained the name of the product “Restylane Sub Q”, its logos, promotional prices and telephone numbers of Be A Lady.
8. These facts are not disputed.

Evidence of the Defendant

9. In her evidence, the Defendant maintained that she was not informed of any intention of Be A Lady to use her article and photographs for promotion of any product. She was told that the information and photographs would only be used as internal reference materials among colleagues.
10. However she felt that the request by Be A Lady was slightly unusual because it was the first time that she was asked to write an article. The Defendant knew that there had been other doctors who made oral presentations from time to time to share their experience and these presentations were videotaped. The Defendant was not asked to make a presentation. At the time when she provided the article and the photographs to Be A Lady, she specifically told Be A Lady that the information and photographs could not be used in any advertisement.

Findings of Council

11. We do not accept that the Defendant was unaware that the article she wrote and the photographs she supplied would be used for promotional purposes.
12. The entire tenor of the article she wrote and the photographs she supplied are promotional in nature. The contents of the article were inconsistent with the purpose of internal reference. It has all the hallmarks of an advertisement.

13. Even if assuming that she was not aware that the materials were to be used in an advertisement, when she was asked to provide the article and the photographs, she must have been aware of the possibility that they could be used in the advertisements of Be A Lady. In such circumstances, she was put on the alert and should have exercised due diligence to prevent the materials from being used in the promotional materials of Be A Lady.
14. We are of the view that it is insufficient for the Defendant to rely on a verbal request to Be A Lady not to use her materials for promotional purposes. She should have exercised due diligence by asking for a written undertaking by Be A Lady as well as showing the Company the relevant sections of the Professional Code and Conduct of the Medical Council of Hong Kong.
15. Giving a plain and natural interpretation to the advertisement on page 81 of the issue no. 046 of FACE magazine dated 9th April 2008, we are satisfied that she endorsed the product “Restylane Sub Q” offered by “變靚D”.
16. It is a long established rule of the medical profession that doctors are prohibited from public endorsement or promotion of a commercial brand of medical or health related products. The rule is designed to prevent the exploitation of a doctor’s status to promote those products, as such public endorsement will lead the public into believing that those products are medically more efficacious than other medicines or health products. It is not in the patient’s interest to do so. In this respect, a distinction must be made between a commercial brand on the one hand, and a medicine on the other hand. While in public health education a doctor may speak about the advantages and disadvantages of a particular medicine, it is an entirely different matter to speak about a particular brand of medical or health products.
17. We are satisfied that the conduct of the Defendant has fallen short of the standard expected amongst registered medical practitioners, and that her conduct constitutes professional misconduct. We find her guilty of the charge.

Sentencing

18. The Defendant has a clear record. There is no other mitigation of weight.

19. Having regard to the gravity of the case, we order that the Defendant be removed from the General Register for a period of two months and such removal order be suspended for a period of two years.
20. In view of the rampant situation of practice promotion, the 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.
21. We are aware that the present case concerns promotion of a product. We do not see any significant difference between practice promotion and product promotion in the sense that both involve the exploitation of a doctor's status to promote services or products for the doctor's financial benefits.
22. We give allowance to the fact that we have not expressly issued a warning in respect of product promotion. We will not apply the warning in respect of practice promotion to the present case. However, we must make clear that future cases of product promotion will be dealt with by removal from the General Register for a short period with suspension of the order, and in serious cases the removal will take immediate effect.

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