

香港醫務委員會

The Medical Council of Hong Kong

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Date of hearing: 29 November 2010  
Defendant: Dr LAU Hay Tung (劉起東醫生)

1. The Defendant, Dr LAU Hay Tung, is charged as follows:

“That he, being a registered medical practitioner -

(1) in respect of an advertisement in the 7 June 2006 issue of the publication ‘Sunday Life’ pertaining to an organisation known as ‘Perfect Skin Laser Clinic’ which he had a financial or professional relationship with -

(a) contrary to paragraph 14.1.1 of the *Professional Code and Conduct for the Guidance of Registered Medical Practitioners* (“the Code”), he failed to ensure that the advertisement conformed to the principles and rules set out in paragraph 4.2 of the Code (Revised to become section 5.2 in the updated version of the Code, as promulgated in the March 2006 issue of the Newsletter of the Medical Council of Hong Kong), in that the advertisement did not conform to the permissible ways of disseminating service information set out under paragraph 4.2.3 (Revised to become section 5.2.3 in the updated version of the Code, as promulgated in the March 2006 issue of the Newsletter of the Medical Council of Hong Kong);

(b) he failed to ensure that the organisation did not seek to obtain business by an improper means, namely by including in the advertisement a coupon offering advantages to new clients; and/or

(2) in or about September 2006, he issued namecards which

contained information other than that permitted under paragraph 4.2.3.2 of the Code (Revised to become section 5.2.3.2 in the updated version of the Code, as promulgated in the March 2006 issue of the Newsletter of the Medical Council of Hong Kong), in that the namecards contained descriptions of the services he offered.

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

### **Facts of the case**

2. Charge (1) is in respect of an advertisement by a clinic. The advertisement was published in a magazine on 7 June 2006. Various services of the clinic and equipments and photographs were published. A coupon was also included in the advertisement offering free and discounted advantages to new clients. The coupon would expire on 30 June 2006.
3. Charge (2) is in respect of the name card of the Defendant. In his name card various medical and cosmetic treatments were described together with some promotional remarks such as “*no scar, blemish and pain*” and “*safe and quick*”.

### **Council's findings**

4. The clinic in question was operated by a limited company. The Defendant was the founder, only shareholder and only director of the company. In other words, he was in complete control of the company and the clinic.
5. Furthermore, according to the Defendant's name card, he was practising medicine at the clinic in question.
6. Under paragraph 14.1.1 of the Professional Code and Conduct (November 2000 version), a doctor has a responsibility to ensure that an organization with which the doctor is professionally or financially related only advertises in accordance with the Code.
7. Given that the Defendant was in full control of the company and the clinic and that he was practising at the clinic, we are satisfied that the advertisement was

placed by the Defendant with full knowledge of its contents. Therefore, he is fully responsible for the advertisement.

8. The advertisement was published in a magazine which contained an overwhelming amount of advertisements of medical and cosmetic products and services. The advertisement was clearly for the purpose of attracting patients to the Defendant's services at the clinic.
9. The coupon offered free trial of laser hair removal treatment and discount for purchasing skin care products to new customers before 30 June 2006. Such offer will have the effect of inducing customers to undergo unnecessary medical treatment even if the treatment is not indicated for the patient. Doctors are not allowed to make such inducement which is not in the patients' interest.
10. We are satisfied that the Defendant's conduct in this respect is below the standard expected amongst registered medical practitioners and constitutes professional misconduct. We find him guilty of charge (1).
11. Under section 5.2.3.2 of the Code of Professional Conduct promulgated in March 2006, doctors are not allowed to include in name cards the services offered and promotional descriptions. Paragraph 4.1.3 of the Code makes clear that "*Practice promotion of doctors' medical services as if the provision of medical care were no more than a commercial activity is likely both to undermine public trust in the medical profession and, over time, to diminish the standard of medical care*". We must prevent that from happening.
12. The inclusion of descriptions of the services offered and promotional remarks in the Defendant's name card was aimed at attracting patients. The promotional remarks of "*no scar, blemish and pain*" and "*safe and quick*" were inconsistent with the professional reputation of the medical profession, and promoted the Defendant's services as a commercial activity.
13. We are satisfied that the Defendant's conduct in this respect is clearly below the standard expected amongst registered medical practitioners and constitutes professional misconduct. We find him guilty of charge (2).

### Sentencing

14. The Defendant has a clear record.

15. The Defendant is fully cooperative in the inquiry and admitted all the allegations of the charges. This reflects his remorse and it is unlikely that he will re-offend. We shall give him credit in sentencing, in accordance with our stated policy as set out in the Practice Directions on Disciplinary Inquiries.
16. On 23 June 2006, the Medical Council issued a warning 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 will take immediate effect. The same warning has been repeated on a number of subsequent occasions. The Council's determination to combat practice promotion in contravention of the Code has not diminished.
17. The disciplinary offence in charge (1) of the present case took place on 7 June 2006, shortly before the warning was issued. Therefore, we shall disregard the warning for the purpose of sentencing for charge (1).
18. The disciplinary offence in charge (2) took place in September 2006. Theoretically the warning applies to charge (2). However, having regard to the fact that the misconduct was committed shortly after the warning and the Defendant's cooperation in the inquiry, we are prepared as an act of exception to be lenient and also disregard the warning in sentencing. However, the Defendant should be particularly careful in the future, as he will not be given such lenient treatment if he comes before this Council again.
19. The Defendant claims that he was unaware of the fact that the inclusion of the descriptions in question in his name card was prohibited by the Code. We must emphasize that it is every doctor's professional responsibility to familiarize himself with all provisions of the Code. Ignorance of such provisions is a failure of his professional duty and is neither defence nor mitigation.
20. Having regard to the gravity of the case and the mitigating factors, we order that a warning letter be served on the Defendant in respect of both charges. The order shall be published in the Gazette.

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