

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Dates of hearing: (Day 1) 29 July 2010, (Day 2) 25 August 2010, (Day 3) 7 September 2010, (Day 4) 26 October 2010, (Day 5) 27 October 2010, (Day 6) 31 October 2010, (Day 7) 22 December 2010, (Day 8) 28 December 2010, (Day 9) 30 December 2010, (Day 10) 8 January 2011

Defendant: Dr TO Chun Fung Albert (杜振峰醫生)

1. The charges against the Defendant, Dr. TO Chun Fung Albert, are that:

“He, being a registered medical practitioner:

- (a) on or about 9 July 2005, failed to ensure that 2 medicine bags containing medications dispensed to his patient Madam X were properly labeled with (i) name of doctor or means of identifying the doctor who prescribed the medications; (ii) a name that properly identified the patient; (iii) the date of dispensing and (iv) the trade names or pharmacological names of the drugs;
- (b) during the period between 15 February 2006 and 11 April 2006, he failed or refused to provide copies of medical notes/records of the patient upon the request made by Madam X through her solicitors;
- (c) on or about 8 July 2005, he used phosphatidylcholine for mesotherapy injections on Madam X, which was not a registered drug or allowed to be used in Hong Kong;
- (d) in or about July 2005, he associated with a beauty institute, namely MBH Beauty Institute, to provide medical treatment to Madam X.

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

2. The Defendant was absent but was represented by Defence Counsel throughout the 9 days of the inquiry. On the first hearing date, Defence Counsel Ms. Angela Gwilt objected to holding the inquiry in the Defendant’s absence and applied for adjournment on the grounds that (i) the Defendant had been seriously injured in a robbery in Mainland China about 13 hours before the inquiry; and (ii) the Defendant had to defend the charges personally as he had not instructed any lawyer to defend the charges; (iii) despite having represented the Defendant in the many related judicial review proceedings and the related personal injury

civil action, Ms. Gwilt was incapable of defending the charges; and (iv) Ms. Gwilt was only instructed at the last minute to apply for adjournment. The inquiry was therefore adjourned in order to enable the Defendant to personally defend the charges at the resumed hearing.

3. When the inquiry resumed, the Defendant was absent but was represented by Defence Counsel Mr. Li Chau Yuen leading Mr. Peter Chow and Ms. Angela Gwilt. Defence Counsel confirmed that proceeding with the inquiry in the Defendant's absence would not cause prejudice to the Defendant, as it was the Defendant's decision not to attend.

Facts of the case

4. On 8 July 2005, Madam X went to MBH Beauty Institute ("MBH") for mesotherapy treatment to deal with her problem of abdominal and gluteal adiposity (i.e. fat pads). She was given mesotherapy injections by a doctor. The staff of MBH had not told Madam X the name of the doctor. After the injections, Madam X developed serious swelling and pain of the abdomen. On 9 July 2005, she went back to MBH to see the same doctor. The doctor told her that those were normal reactions, and prescribed pain killers for her. The medicines dispensed to Madam X were not labeled with the necessary information except the patient's name.

5. The pain persisted and Madam X went to the Accident and Emergency Department of Prince of Wales Hospital on 10 July 2005. The diagnosis was allergic reaction or abdominal wall infection.

6. On 12 July 2005, Madam X went back to MBH for follow up by the same doctor. The doctor said that there was no infection and told Madam X not to take the medicine prescribed by the hospital, as the swelling would subside even without the medicine. As Madam X had doubts about what the doctor told her, she consulted another doctor on 15 July 2005 and that doctor diagnosed inflammation and fat necrosis (i.e. death of fat cells).

7. On 18 July 2005, Madam X telephoned MBH asking for the name of the doctor who administered the injections to her. As she got no reply, she chased up for the doctor's name in the morning of 25 July 2005 and demanded a medical report setting out the contents of the injections. In the afternoon MBH told her over the telephone that the treating doctor was Dr. To Chun Fung and the medical report would be prepared later. On 26 July 2005, MBH told her to collect the medical report at around 6 p.m. When she went to MBH to collect the medical report, her friend overtly recorded her conversation with the MBH staff. The medical report stated that phosphatidylcholine mixed with deoxycholate and lignocaine were injected.

8. On 27 July 2005, Madam X made a complaint to the Medical Council. She also complained to a newspaper about the treatment she received from the Defendant. She said that there was subsequent report of her complaint in that newspaper a few weeks later.

9. On 2 August 2005, a staff of MBH telephoned Madam X saying that they had instructed lawyers to handle the matter and they reserved their legal rights to sue in respect of Madam X recording the conversation. On 4 August 2005, another staff of MBH telephoned Madam X apologizing for what the other staff had said over the telephone, offered free slimming treatment to her, and asked about her physical condition.

10. On 23 August 2005, MBH issued a registered letter to Madam X saying that her treating doctor was not Dr. To Chun Fung but a “Dr. Chan”.

11. On 15 February 2006, Madam X through her solicitors requested the Defendant to provide a copy of the entire medical records/notes in respect of Madam X’s consultations and treatment, for the purpose of advising Madam X in respect of the Defendant’s mesotherapy injections to Madam X on 8 July 2005. On 28 February 2006, the solicitors delivered by hand a letter repeating the same request. On 14 March 2006, when Madam X’s solicitor telephoned to chase up for the medical records, the Defendant replied that he could comply with the request within the 40-day period ending on 8 April 2006. The Defendant had not provided any medical record or notes pursuant to the request.

Council’s findings

12. The Defendant was absent from and did not give evidence in the inquiry. That is his right. We shall not draw any adverse inference from his absence and not giving evidence. We also bear in mind that the burden of proving the charges is on the Legal Officer, and the Defendant does not have to prove his innocence.

Identity of treating doctor

13. The crucial issue in the inquiry is the identity of the treating doctor who administered the mesotherapy injections.

14. The evidence identifying the Defendant as the treating doctor includes the following:-

- (i) on 25 July 2005 an MBH staff informed Madam X that the Defendant was her treating doctor;
- (ii) on 26 July 2005 a nurse who explained the contents of the medical report confirmed that the Defendant was the treating doctor;
- (iii) the medical report provided by MBH bears the Defendant’s letterhead; and
- (iv) Madam X identified the Defendant in various photographs published in newspapers and magazines.

15. The Defence denied that he had administered the injections, relying on:-

- (i) the registered letter dated 23 August 2005 from MBH saying that the Defendant was not the treating doctor;

- (ii) handwriting expert opinion that the signature on the medical report was not made by the Defendant;
- (iii) the alibi evidence from his cousin who allegedly was present with the Defendant at his birthday dinner in Mong Kok from around 6 p.m. to 10 p.m. on 8 July 2005;
- (iv) the statement by Madam X, at the mediation meeting on 13 May 2010 in respect of the personal injury civil action, that she “could not be 100% sure” that the Defendant in the meeting was the treating doctor.

16. Madam X had the opportunity to observe the doctor who administered the mesotherapy injections on 3 separate occasions: (i) during the mesotherapy injections on 8 July 2005; (ii) during the follow-up consultation on 9 July 2005; and (iii) during the follow-up consultation on 12 July 2005. On each of the 3 occasions, Madam X saw the same doctor face to face, at very close distance, in good lighting, and for a significant period of time. On each occasion, Madam X had face to face discussions with the same doctor. In the circumstances, we find that Madam X recognized the appearance of the doctor who administered the mesotherapy injections clearly. Madam X did not know the name of the treating doctor until she was told by the MBH staff on 25 July 2005 on the telephone that the Defendant was the treating doctor.

17. On 26 July 2005 when Madam X collected the medical report from the MBH staff, a nurse fetched by the MBH staff to explain the contents of the report confirmed that the name “西醫杜振峰 DR. TO CHUN FUNG” on the letterhead was the doctor who administered the injections.

18. On 25 July 2005, the MBH staff told Madam X that the Defendant was the treating doctor. On 26 July 2005, the nurse fetched by the MBH staff in reply to Madam X’s enquiry spontaneously responded that the Defendant was the treating doctor. Given their relationship with MBH and the Defendant, the only logical inference is that the Defendant was the treating doctor. It should also be noted that the nurse was not pre-arranged to present the report to Madam X, and was only fetched when the MBH staff was unable to explain the technical contents of the report.

19. The medical report bore the letterhead of the Defendant. The Defendant’s name was also type-written below the signature. The highly technical nature of the contents of the report was consistent with a report written by a doctor. The contents correlated with the events and conversations which took place during the mesotherapy treatment and the follow-up consultation. These matters were privy to the treating doctor who had administered the injections and seen Madam X in the follow-up consultation. The only reasonable inference is that the report was written by the Defendant in the capacity of the treating doctor.

20. We note that a handwriting expert engaged by the Defendant was of the opinion that the signature on the report was not the signature of the Defendant. However, this does not affect our finding that the report was written by the Defendant for the following reasons:-

- (i) in medical practice medical reports are sometimes written or dictated by the doctor and signed on his behalf by the clinic staff;
- (ii) any person may use different signatures for different purposes, such as for cheques, official documents, and professional purposes. Depending on the sample signatures submitted for handwriting comparison, the questioned signature may be different from the sample signatures even if both are written by the same person.

21. Both the MBH staff and the nurse explained the contents of the report on the basis that it was issued by the treating doctor whose name appeared in the letterhead. Given the close relationship between the Defendant and MBH which we shall outline later on, again the only logical inference is that they were telling the truth.

22. The letter dated 23 August 2005 from MBH said that the treating doctor who administered the mesotherapy treatment and prescribed the medicines was a “Dr. Chan” and another doctor wrote the report since “Dr. Chan” was on summer vacation. No particulars of “Dr. Chan” were given, not even his full name and the location of his clinic. It also said that the MBH staff who spoke to Madam X was a sales lady who “*did not actually know the fact and might have mis-informed [Madam X]*”. If that was the truth, we would expect that the doctor writing the report would have stated that it was written on behalf of another doctor who provided the treatment.

23. For the above-mentioned reasons and the close relationship between MBH and the Defendant, we are of the view that this letter was a self-serving disclaimer to protect the Defendant when it was discovered that Madam X’s case was developing into a serious matter.

24. The Defendant’s response to the telephone enquiry of Madam X’s solicitor on 14 March 2006 was consistent with the fact that he was the treating doctor of Madam X. If he had not provided treatment to Madam X at all, he should have told Madam X’s solicitor immediately that Madam X was not his patient instead of asking for more time to provide the medical record of Madam X, given that he had been fore-warned about the request by the solicitor’s letters dated 15 February 2006 and 28 February 2006.

25. As the Defendant was absent from the inquiry, Madam X had no opportunity of identifying him in person at the inquiry. However, she identified the Defendant shown in a photograph published in a magazine and in a number of other photographs published by MBH. There was no dispute that the person shown in those photographs was the Defendant.

26. We bear in mind that the name of the Defendant was shown in the caption accompanying the photograph published in the magazine which could have prompted Madam X. However, we do not think that this affected the reliability of Madam X’s recognition of the appearance of the treating doctor, given the quality of her observation of the treating doctor on the 3 occasions.

27. As to the alibi witness, we find him a dishonest and unreliable witness. His evidence was full of inconsistencies. He gave different versions of events in his witness statement for

the inquiry and in his statement to the police. Under cross-examination, his story became absurd, suggesting that he was making up the story when he went along. To name just an example, it is unbelievable that the Defendant not being close to the alibi witness would have invited the witness to a very private dinner with a woman with whom he had an intimate relationship at that woman's residence, particularly the Defendant's wife was not present at this very significant event of the Defendant's 50th birthday. As the witness was asking the Defendant to give urgent medical advice for a lady colleague whom he confessed to be fond of, and the witness had been to the Defendant's clinic previously for medical advice, there was no reason for the Defendant to ask the witness to wait a number of hours and meet him for the dinner party. There were ample opportunities for the Defendant to give the urgent advice instead of going to the woman's residence. The witness could not give any explanation as to why in view of the urgency of the matter, he did not ask the Defendant for the advice in the 2 hours when he was just watching television and waiting for the other dinner guests. Even more unbelievable was that after waiting for so long for that advice, the witness did not even ask for advice on the symptoms and the diagnosis and the Defendant's only advice was to consult a public hospital for further investigation. The witness was not even able to tell what the symptoms of the colleague were. After the dinner, he did not even tell the colleague the Defendant's advice in view of the urgency, but waited until the next day to do so. Despite the witness's fondness for that colleague and the urgency of the matter, he did not follow up about her medical condition and had no further contact with her after that incident. That colleague simply disappeared from the picture for no reason. We reject the evidence of the alibi witness.

28. We had also considered the allegation of coaching of Madam X by the Legal Officer and a member of the secretariat in relation to identifying the Defendant from a photograph. The only evidence of such coaching came from the alibi witness. Given our finding that the alibi witness was a dishonest and unreliable witness, that allegation is rejected. Furthermore, it is illogical that the alleged coaching would have been done when the Legal Officer saw that the alibi witness had opened the door to watch and when Ms. Gwilt was in the room next doors.

29. Finally, we have to consider the fact that in May 2010 Madam X was unable to say with 100% certainty that the Defendant was the treating doctor. In view of the other identification evidence which by itself is overwhelming, we find that it does not affect the reliability of Madam X's identification evidence.

30. We find that the Defendant was the treating doctor who administered the mesotherapy injections to Madam X on 8 July 2005 and prescribed medicines to her on 9 July 2005.

Defendant's relationship with MBH

31. The Company Registry and Land Registry records and the publicity materials issued by MBH and the Australasian College of Cosmetic Surgery Hong Kong Chapter ("ACCS-HK") revealed that there was a close relationship between the Defendant and MBH.

32. The names of the Defendant's father and mother were set out in the Defendant's birth certificate. The name of the Defendant's wife was confirmed by the alibi witness.

33. From 18 June 2005 to 2 June 2009, MBH Group was a syndicate made up of (i) MBH (HK) Co. Ltd. trading as "MBH Beauty Institute"; (ii) Hong Kong IPL & Laser Institute Ltd.; and (iii) Hong Kong Academy of Cosmetic Medicine.

34. From 22 March 2005 to 18 December 2009, the Defendant's mother was the only shareholder and the only director of MBH (HK) Co. Ltd., and the Defendant's wife was its secretary. The company held the lease for the whole of the 9th and 10th floors of Sino Cheer Plaza from 15 November 2004 to 14 November 2007. MBH Group used both the 9th and 10th floors for its business of training in cosmetic surgery and cosmetic dermatology services, and the tenancy agreement only allowed the premises to be used by MBH (HK) Co. Ltd. From 1 January 2005 to 31 December 2006, the Defendant's registered address with the Medical Council was Room 1001, Sino Cheer Plaza. In July 2005, the Defendant's clinic was on one of the floors of the premises with a signboard.

35. From its incorporation in 2000 onwards, the Defendant's father and a BVI company have been the only shareholders of a company owning a residential flat. The Defendant's father, mother and wife have been the only directors of the company. The flat became the Defendant's registered address with the Medical Council in 2009.

36. The Defendant's mother was the majority shareholder of Hong Kong IPL & Laser Institute Ltd from 2004 to 2006 and has been the only shareholder from 2007 onwards. She was one of its 2 directors from 2004 to 2005, and has been the only director from 2007 onwards. The Defendant's wife has been its secretary from 2004 onwards.

37. The names of the Defendant's father and mother in the Company Registry's record were the same as those set out in the Defendant's birth certificate in Chinese, but the English names were spelled differently. Despite such spelling differences, it was confirmed in the judicial review proceedings that the person shown in the Company Registry records was the Defendant's mother. From the fact that the Defendant's mother and the person with the same Chinese name of the Defendant's father but differently spelled English name were joint tenants of the flat which was the residential address of both persons, we are satisfied that that person was the Defendant's father.

38. Put simply, the various organizations under the MBH Group were entirely controlled by the Defendant's family.

39. The Defendant was the President, Secretary and "Official Spokes-person" of ACCS-HK. He was responsible for promoting the training services of ACCS-HK. The address of ACCS-HK was 9-10th Floor, Sino Cheer Plaza. It had the same telephone number of MBH. Its email address was under MBH's website domain.

40. To all intents and purposes, the premises and telephone number of MBH were used by the Defendant both for his medical practice and the services of ACCS-HK. The operations of

the MBH Group and the Defendant's clinic and ACCS-HK were so intricately connected that their separate corporate identities were more apparent than real. Given that degree of cooperation, the only logical inference is that the MBH staff and the nurse were telling the truth as to the authorship of the medical report and the identity of the treating doctor.

Charge (a)

41. Given our finding that the Defendant was the doctor who administered the injections and prescribed medicine to Madam X, we are satisfied that the medicines were dispensed to Madam X on the Defendant's authority.

42. Paragraph 10.1 of the Professional Code and Conduct (2000 version) ("the Code") required that medicines dispensed to patients must be labeled with the specified information. None of such information, other the patient's name, was on the bag containing the medicines dispensed to Madam X. The Defendant's conduct was below the standard expected amongst registered medical practitioners. We find the Defendant guilty of professional misconduct as set out in charge (a), with the exception of failing to label the medicine with the patient's name.

Charge (b)

43. Defence Counsel argued that mesotherapy is cosmetic treatment and not medical treatment, therefore there is no question of medical records and notes.

44. Injection of any substance into the human body must be considered as medical treatment. Mesotherapy using phosphatidylcholine is an invasive procedure with injection of medicines into the patient's body. This must be considered as a form of medical treatment, for which proper documentation of the procedure is necessary.

45. We see no excuse for the Defendant to refuse to provide the medical records and notes of Madam X. The Defendant's conduct in this respect is below the standard expected. We find him guilty of professional misconduct as set out in charge (b).

Charge (c)

46. Given our finding that the medical report was issued by the Defendant and the contents correlated with the events of the mesotherapy treatment to Madam X, we accept that phosphatidylcholine mixed with deoxycholate and lignocaine was injected as stated in the medical report.

47. The Department of Health has confirmed that there has never been any registered pharmaceutical product containing phosphatidylcholine. Any person wishing to import unregistered pharmaceutical products for use in a particular patient has to apply for a licence from the Department with a letter from a registered medical practitioner stating the name of the patient and other related information. The Defendant has never applied personally or through an agent to import a pharmaceutical product containing the injectable form of

phosphatidylcholine for use in any patient.

48. Defence Counsel argued that as phosphatidylcholine was not used for treatment of illness or abnormal physical or physiological state, it did not fall within the definition of pharmaceutical products and medicine set out in section 2 of the Pharmacy and Poisons Ordinance.

49. Abdominal and gluteal adiposity is classified as a disorder by the World Health Organization (i.e. WHO) in the International Classification of Diseases. Substance used in the treatment of a disease falls within the statutory definition of pharmaceutical products and medicines in the Pharmacy and Poisons Ordinance.

50. It should also be noted that the statutory definition in the Pharmacy and Poisons Ordinance also includes “any substance or mixture for use in altering, modifying, correcting or restoring any organic function in human beings or in animals”. Substance used in mesotherapy to dissolve subcutaneous fat in the human body falls within such definition. The fact that phosphatidylcholine was mixed with 2 other drugs (i.e. deoxycholate and lignocaine) for injection into Madam X’s body speaks for itself.

51. We must point out any product for injection into the human body must be a pharmaceutical product, including water for injection.

52. It is a criminal offence to distribute or possess any unregistered pharmaceutical product or substance which has not been imported with a licence from the Department of Health. It is also dangerous practice for a doctor to use an unregistered drug on a patient, because the safety, efficacy and quality are not known.

53. We are satisfied that the Defendant had used a drug which was neither registered nor allowed to be used in Hong Kong in the injections on 8 July 2005. This is dangerous conduct and is far below the standard expected amongst registered medical practitioners. We find the Defendant guilty of professional misconduct as set out in charge (c).

Charge (d)

54. On both 8 July 2005 and 12 July 2005, the Defendant told Madam X that she must undergo the mesotherapy treatment in conjunction with the body slimming programmes of the beauty parlor in order to expel the dissolved fat out of the body. Given that the whole arrangement was made by MBH, the Defendant must be referring to the body slimming programmes of MBH.

55. The preparation for the mesotherapy treatment was conducted by the non-medically qualified staff of MBH, including taking history from Madam X by the checklist and explanation of the treatment to Madam X. The medicines were dispensed with the stamp of Hong Kong IPL & Laser Institute Ltd. on the medicine bags.

56. Paragraph 20.1 of the Code provided that a registered medical practitioner should not associate himself with a non-qualified person in providing any form of healing or treatment for his patients. The Defendant in having MBH promote his dermatological services and making preparation for the mesotherapy treatment, instructing the patient to undergo mesotherapy treatment in conjunction with the body slimming programmes of a beauty parlour in order to achieve the intended treatment effect, and dispensing medicine to the patient under the name of Hong Kong IPL & Laser Institute Ltd. showed the collaboration between the Defendant and the various organizations of MBH in delivering the medical treatment to the patient. Such association with non-qualified persons is prohibited by the Code.

57. We are satisfied that the Defendant's conduct in this respect has fallen below the standard expected amongst registered medical practitioners. We find him guilty of professional conduct as set out in charge (d).

58. In conclusion, the Defendant is guilty of all charges, save that the reference to the patient's name in charge (a) is disregarded.

Admissibility

59. We have been invited to give the reasons for our ruling on the admissibility of the medical report and the audio recording. While the reasons are already reflected in our judgment above, for completeness sake we state the reasons here explicitly.

60. The medical report is evidence relevant to the issue of whether the Defendant was the treating doctor, irrespective of whether the signature thereon was the Defendant's signature.

61. The audio recording is relevant to the reliability of the nurse's identification of the Defendant as the treating doctor. Criticism of the reliability of the recording is only relevant to the weight but not the admissibility of the evidence.

Sentencing

62. The Defendant has a previous disciplinary conviction in 2000 for the charge of disregarding his professional responsibility to treat his patient in that in 1997 he performed an unnecessary or inappropriate total hysterectomy and right salpingoophorectomy on a pregnant patient. A warning letter was served on him.

63. The previous conviction is relevant to sentencing on charge (c) in the present case, as both involved improper treatment to a patient.

64. We can see no mitigation at all. The Defendant has shown neither remorse nor insight into his misconduct. He strenuously contested the charges on the fraudulent basis that he was not the treating doctor.

65. We have emphasized on many occasions the importance of proper labelling of dispensed medicines, given the serious potential danger in emergencies if other doctors do not know the nature of the medicine that the patient has been taking. The misconduct in charge (a) is towards the serious end of similar cases. It is not a case of forgetting to label the medicines with the necessary information. The only reasonable inference from his approach to the charges in denying his involvement in the treatment of Madam X is that he is exploiting the lack of information on the dispensing doctor to hide behind MBH, so that he is beyond the reach of the Council's regulatory powers. This seems to be an emerging practice and deliberate arrangement in connection with medical treatment provided through beauty parlours. We have recently dealt with similar cases in which the doctors also denied involvement in the treatments on the ground that there was no information on the medicine labels identifying the prescribing doctor. We have strong reasons to believe that the Defendant will continue to practise in the fraudulent manner.

66. Charge (c) is also serious, as administering unregistered drugs on patients carries the potential of serious harm. The safety and side effects of such unregistered drugs are unknown. While we note that the effect of the drug in question is not lethal, we must also have regard to the fact that possession and distribution of unregistered drugs is a criminal offence punishable by a fine of \$100,000 and imprisonment for 2 years. Having regard also to his previous conviction, we have strong reasons to believe that the Defendant will continue to practise in the same manner.

67. Defence Counsel urged upon us to accept as mitigation the hardship of the negative publicity suffered during the past 5 ½ years given the repeated delays of the inquiry. Defence Counsel blamed the delay on the part of the complainant in failing to provide the original medical report for forensic examination. Having reviewed the cause of the repeated delays brought about by the judicial review proceedings by the Defendant, we agree with the observation of the Honourable Mr. Justice A Cheung that the judicial review proceedings cannot be separated from the underlying dispute as to whether the Defendant was the treating doctor and the maker of the medical report.

68. Given our finding that the Defendant was the treating doctor and the maker of the medical report, it follows that the multiple judicial review proceedings were unreasonably instituted by the Defendant knowing that there was no basis for doing so. In our view, the Defendant was the instigator of the long delay of the inquiry. This is consistent with his conduct in the inquiry hearings. He is not entitled to blame the complainant and the Legal Officer for the delay and mitigate on the ground that he has suffered additional hardship because of the delay.

69. Having regard to the gravity of the case, we make the following orders:-

- (i) in respect of charge (a), the Defendant's name be removed from the General Register for a period of 6 months;
- (ii) in respect of charge (b), the Defendant be reprimanded;

- (iii) in respect of charge (c), the Defendant's name be removed from the General Register for a period of 15 months;
- (iv) in respect of charge (d), the Defendant be reprimanded;
- (v) the removal orders in respect of charges (a) and (c) to run concurrently, given that they arose from the same treatment;

70. We are particularly concerned that the Defendant has been trying to delay the inquiry thus giving him the opportunity to practise in the same manner. We are satisfied that it is necessary to implement the removal orders as soon as possible, as it is necessary for the protection of the public. We therefore further order that the removal orders in respect of charges (a) and (c) to take effect upon their publication in the Gazette.

Other remarks

71. When the Defendant applies for restoration to the General Register, we recommend that the Council in processing the application should consider a supervision and audit condition for a period of 2 years upon restoration in respect of (i) proper drug labelling; (ii) keeping of proper medical records; and (iii) proper use of medicines.

72. The Defendant's name is included in the Specialist Register under the specialty of 'Obstetrics and Gynaecology'. While it is the function of the Education and Accreditation Committee to consider whether action should be taken under section 20N of the Medical Registration Ordinance in respect of his specialist registration, we are of the view that either of the following reasons warrants his removal from the Specialist Register:-

- (a) upon removal from the General Register a person loses the prerequisite status to remain in the specialist Register;
- (b) the misconduct involved in charges (a) and (c) are relevant to safe treatment of patients which is a basic requirement for all doctors, not to mention specialists.

73. We note that more and more unscrupulous doctors are resorting to the irresponsible scheme of providing medical treatment through beauty parlours without revealing to the patients the identity of the doctors, so that if anything goes wrong they can hide behind the beauty parlours and evade the regulatory powers of the Medical Council. We wish to impress upon members of the public that before receiving treatment from beauty parlours claiming to provide service of registered doctors, they should ascertain the identity of the doctor who will provide the medical treatment and also obtain proof of treatment provided by the doctor, such as demanding a receipt issued by the doctor and insisting on labelling of the dispensed medicine with the doctor's name. If in doubt, they can easily check whether the purported doctors are registered from the list of registered doctors published on the Medical Council's website.

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