香 港 醫 務 委 員 會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Date of hearing: 28 April 2011
Defendant: Dr HUI Chi Ching Angus (許智政醫生)

1. The charge against the Defendant, Dr HUI Chi Ching Angus, is that:

> "He, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the title of "皮膚科專業醫生" in the advertisement or article published in the May 2009 issue of the Beauty Pro, which was inappropriate as 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 in the field of "Dermatology and Venereology".
>
> In relation to the facts alleged, he has been guilty of misconduct in a professional respect."

Facts of the case

2. The Defendant is the proprietor of a beauty clinic. In the May 2009 issue of a magazine, an article on beauty equipment was published. In the article the equipment used in the Defendant's clinic was featured with comments by the Defendant on the advantages of that equipment. The Defendant's photograph and name were published in the article. The Defendant's title was quoted as "皮膚科專業醫生", meaning "professional doctor in Dermatology".

3. Under the Medical Registration Ordinance, only doctors included in the Specialist Register are specialists and entitled to use the specialist title. The

Defendant was not included in the Specialist Register, and was therefore not a specialist and could not use the specialist title.

4. A lady after reading the article tried to verify the Defendant's specialist status in Dermatology from the Medical Council's website, and discovered that the Defendant was not included in the Specialist Register. She then complained to the Medical Council that the Defendant used a false and misleading title.

Findings of the Council

5. In his submission to the Preliminary Investigation Committee in April 2010, the Defendant claimed that he was merely replying by email to some questions from a journalist of the magazine regarding the equipment used in his clinic, and he did not know that the article would be published or that reference would be made to him. He further claimed that he had never met the journalist nor provided his photograph to the journalist, and had no further contact with the magazine after his answers to the journalist's questions had been sent to the journalist through the Marketing Executive of his clinic.

6. The article in question was a feature article highlighted on the cover of the magazine. Although it is not clear whether the article was an advertisement, on a plain and natural interpretation of the article we are satisfied that it was published for the purpose of promoting the services and equipment of the few beauty clinics involved, including the Defendant's clinic.

7. Contrary to the Defendant's claim to the Preliminary Investigation Committee, articles about the Defendant or written by the Defendant were published in at least 3 different issues of the same magazine, in February 2009, May 2009, and March 2010. The same title "皮膚科專業醫生" and the same photograph were published in both the February 2009 issue and the May 2009 issue. The photograph of the Defendant's equipment was provided by the Defendant's Marketing Executive to the magazine. The article in the March 2010 issue was written by the Defendant for publication in the magazine. It is clear that the Defendant has a continuing relationship with the magazine.

8. We do not accept the Defendant's claim that he had no knowledge of the article in question published in the May 2009 issue. After the misleading

title had been published in February 2009, the Defendant must be alert to the possibility that the same misleading title might be used when he provided information on his equipment to the magazine. Nevertheless, there was no evidence of any precaution taken by the Defendant to prevent use of the same title by the magazine.

9. We find that the Defendant was well aware of the previous use of the title by the magazine in February 2009. We also find that he provided his comments on his equipment to the magazine in April 2009 for the purpose of publication. Nevertheless, he continued to provide information to the magazine for publication without protest against the misleading title. Although we do not know whether he had expressly sanctioned the use of the title, at least he had acquiesced in the use of the title when it was published for the second time in May 2009.

10. Section 7.2 of the Code of Professional Conduct provides that "*Doctors who are not on the Specialist Register cannot claim to be or hold themselves out as specialists. A non-specialist is not allowed to use any misleading description or title implying specialization in a particular area (irrespective of whether it is a recognized specialty), such as "doctor in dermatology or* "皮膚醫生".

11. In its Newsletter issued in November 2002, the Medical Council specifically warned doctors that the use of a title with an indication of the field of practice by a non-specialist would cause confusion to the public and would be regarded as breaching the Professional Code and Conduct (the predecessor of the current Code of Professional Conduct).

12. The Defendant in acquiescing in the use of the misleading title has clearly committed conduct below the standard expected amongst registered medical practitioners. We are satisfied that such conduct constitutes professional misconduct. We find him guilty as charged.

Sentencing

13. In February 2010, the Defendant was found guilty of 3 charges of professional misconduct, in respect of unauthorized advertisement, unauthorized practice promotion and unauthorized promotion of the services of a beauty centre in

2006. In that case he was an employee of the beauty centre. He was ordered to be reprimanded.

14. In accordance with the policy set out in the 'Practice Directions on Disciplinary Inquiries', we give the Defendant credit for admitting the factual allegations of the charge. However, we must have regard to the fact that during preliminary investigation of the case he made a number of allegations which have been contradicted by evidence and which we have found to be untrue. Had those untrue allegations not been rebutted by evidence, they would have exonerated the Defendant of professional misconduct. In fact, in mitigation it was revealed that he was a column writer for that magazine.

15. At the time he made those untrue allegations in April 2010, he had already been found guilty of professional misconduct in the previous case in February 2010 and was reprimanded. This shows the lack of remorse despite the reprimand.

16. While the charge is not on practice promotion, it is about use of a misleading title in an article published to the public. It must have had some effect in promoting the Defendant's practice.

17. Having regard to the gravity of the case and the mitigating factors, we order that the Defendant's name be removed from the General Register for a period of 2 months. We further order that the removal order be suspended for a period of 2 years, subject to the condition that he should not commit any further disciplinary offence.

18. We must advise the Defendant to be particularly careful in the future conduct of his medical practice, and take proper measures to ensure compliance with the rules of professional conduct. Opportunity has been given to him on 2 separate occasions. If he is found guilty of any further disciplinary offence, it is highly likely that such offence will be visited by unsuspended removal from the General Register.

Other remarks

19. We wish to make some observation on the manner in which prosecution of the case was conducted. The Notice of Inquiry was issued on 30 June 2010,

almost 10 months before the inquiry. Nevertheless, the charge was amended and additional documents were added to the Secretary's Bundle with advance notice of less than 1 day to the Defence.

20. While we allowed the application to amend the charge and to adduce the additional evidence on the ground that no irremediable prejudice would be caused to the Defence, we must point out that last minute changes to the charge and evidence without advance notice in good time may lead to applications for adjournment in order to give time to the Defence for further preparation to meet the changes. Those who are responsible for preparation in future cases must exercise due diligence in order to avoid undue delay of the inquiry.

Dr. CHOI Kin, Gabriel
Temporary Chairman, Medical Council