

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

---

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

Date of hearing: 28 November 2011

Defendant: Dr CHOW Wai Kong (周偉剛醫生) (Reg. No. M11945)

1. The charges alleged against Dr CHOW Wai Kong are that:

“In September 2010, he, being a registered medical practitioner :

(a) sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the title of “皮膚學專家” in an advertisement published in the 370<sup>th</sup> issue of the East Week magazine, which was not acceptable to the Medical Council for use and 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;

(b) sanctioned, acquiesced in or failed to take adequate steps to prevent the appearance of his name, title, photograph in the said advertisement endorsing the line of the products of “Age Lift” offered by Garnier.

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

**Facts of the case**

2. The charges are in respect of an advertisement published in the East Week magazine issued on 29 September 2010. The advertisement was in respect of a brand of skin care products, namely the “Age Lift” line of “Garnier”. Statements made by various persons about the need for early skin care and the

advantage of the “Age Lift” products were inserted in the advertisement. The Defendant was one of them.

3. In the advertisement, the Defendant’s name appeared with the Chinese suffix “醫生” meaning “doctor”, and was followed by the title “皮膚學專家” meaning “specialist in dermatology”.

### **Findings of the Council**

4. Under the Medical Registration Ordinance, only doctors whose names are included in the Specialist Register under a particular specialty are entitled to use the title of “specialist in that specialty”. It is a criminal offence punishable with imprisonment for any person whose name is not included in the Specialist Register to use any title or description suggesting or implying that he is a specialist doctor.
5. In the Council’s newsletter issued in November 2002, doctors were specifically warned that use the doctor’s title with an indication of the field of practice by non-specialists would be regarded as breaching the Professional Code and Conduct. The title in the present case goes much further than a simple indication of the field of practice.
6. The Defendant has never been included in the Specialist Register. In the circumstances, he was and is not (either legally or professionally) entitled to use the specialist title or any description suggesting that he is a specialist doctor.
7. The factual allegations of the charges are not disputed, and most of them are admitted by the Defendant. However, we have to make a finding on whether the publication of the relevant information about the Defendant was sanctioned or acquiesced in by the Defendant, or the Defendant failed to take adequate steps to prevent publication of such information in circumstances requiring him to take steps to prevent such publication.
8. The photograph was not a casual snapshot taken without the cooperation of the Defendant. It showed the Defendant posing in what appeared to be his clinic. It is a logical inference that the photograph was provided by the Defendant to the magazine or the marketing staff of “Garnier” products, and the purpose of

providing the photograph was for it to be published in connection with the products. We note that the same photograph was also published in two other advertisements in June 2010 and August 2010, and a further photograph of the Defendant was also published in yet another advertisement published in August 2010. All the advertisements were about skin care products. This shows that the Defendant was extensively involved in commercial promotion of various skin care products.

9. We find that the Defendant, to say the least, acquiesced in the publication of his name, title and photograph for the purpose of endorsing the “Garnier” products.
10. It is a long established rule of the medical profession that doctors are not allowed to use their professional status to publicly endorse a commercial brand of products. The publication of the Defendant’s information in the advertisement was clearly for the purpose of public promotion and endorsement of the commercial brand of products.
11. We are satisfied that the Defendant acquiesced in the publication of the title set out in charge (a). Such conduct is below the standard expected amongst registered medical practitioners. We find him guilty of professional misconduct as in charge (a).
12. We are satisfied that the Defendant acquiesced in the publication of the information set out in charge (b) for the purpose of public endorsement of the “Age Lift” line of the commercial brand “Garnier”. Such conduct is below the standard expected amongst registered medical practitioners. We find him guilty of professional misconduct as in charge (b).

### **Sentencing**

13. The Defendant has a clear record.
14. We give the Defendant credit in sentencing for his cooperation during the inquiry. We note that upon the Legal Officer taking issue with Defence Counsel’s mitigation that the Defendant was cooperative during preliminary investigation, Defence Counsel has withdrawn that mitigation.

15. This Council has issued a clear warning in June 2006 that in view of the rampant situation of practice promotion, 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 has been repeated on a number of occasions subsequently.
16. The present offences were committed in September 2010, and there is no reason that the warning should not apply.
17. We are concerned that despite the fact that the Preliminary Investigation Committee drew the complaint to the Defendant's attention in May 2011, and the Notice of Inquiry was issued in September 2011, the Defendant was still publishing in his practice website articles promoting skin care products at least up to 9 November 2011. While this is not the subject matter of the charges, it militates against the mitigation of remorse as shown by his admissions and cooperation in the inquiry. We cannot turn a blind eye to continuing conduct of commercial promotion of products on one hand, contrary to his avowed expression of remorse on the other hand. Although we shall refrain from treating this as an aggravating factor, we cannot accept in full the mitigation of remorse.
18. This is a clear case of obvious commercial promotion of a brand of skin care products. The use of the offending title of “皮膚學專家” was designed to wrongfully enhance the credibility of the Defendant as a specialist doctor and the promotional effect of his endorsement of the products. In view of the Defendant's continuing conduct in practice promotion of other skin care products, we are of the view that this is a case which verges on the margin of immediate removal from the General Register.
19. We are concerned that some members of the profession are taking for granted that first offences of this nature will be dealt with by way of suspended removal from the General Register. We must make it loud and clear that this Council shall have no hesitation in ordering unsuspended removal from the General Register in appropriate cases, particularly where it is shown that the defendant is taking advantage of the usual sentence to maximize their product promotion activities until he is caught.

20. Having considered the gravity of the case and the mitigating factors, we consider that an order of unsuspended removal would be appropriate, had the additional warning above been given previously. Given that the additional warning is only given now, we order that the Defendant's name be removed from the General Register for a period of 3 months. We further order that the removal order be suspended for a period of 2 years, subject to the condition that he takes immediate action to cease all promotional activities of public endorsement of commercial products, in any case not later than 5 days from this date.
  
21. The Defendant should treasure the opportunity we have given him and take particular caution to ensure that he will not commit further disciplinary offences. He must bear in mind that breach of the above condition or commission of further disciplinary offences during the suspension period may result in activation of the removal order.

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