

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr TAM Yat Cheung Alfred (譚一翔醫生) (Reg. No. M03325)

Date of hearing: 10 May 2013

1. The charge alleged against the Defendant, Dr TAM Yat Cheung Alfred, is that:-

“In or around November 2010, he, being a registered medical practitioner, had sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of “BB 的第一次百科全書” which promoted his practice in association with *Children at 818* and/or *818 兒科*.

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

Facts of the case

2. The case involves a booklet with the title “BB 的第一次百科全書”. As stated prominently on the front cover of the booklet, it was edited and written by the Defendant. It was published by “Children at 818” in collaboration with a publishing company. The booklet was distributed free of charge together with a parenting magazine published in November 2010 by the same publisher.

3. A subscriber of the magazine lodged a complaint to this Council that the booklet was too commercial in promoting the doctors and the medical centre.

4. “Children at 818” was a medical centre headed by the Defendant. The centre was fully owned by Defendant and his wife through the intermediary of two companies. Besides the Defendant, there were three other doctors practising in that centre.

Findings of Council

5. The Defendant admitted during the stage of preliminary investigation that he was solely responsible for the administration, management and marketing activities of the medical centre. According to his explanation to the Preliminary Investigation Committee, the other three doctors practising at the centre had no knowledge of the publication of the booklet, and one of those doctors had in fact resigned almost a month before the publication of the booklet. He accepted full responsibility for his mistake in publishing the booklet.
6. The booklet contained articles on various topics relating to child care. It has 96 pages, interlaced with full-page advertisements of child care products on almost every other page. According to the foreword written by the Defendant, it was published by the medical centre for addressing the various problems faced by parents. At the end of the booklet, there was a detailed introduction running to three full pages of the medical services of the medical centre and each of the doctors practising thereat, concluding with an invitation for readers to register as members of the centre through the centre’s website.
7. While the individual articles in the booklets were educational in nature, the booklet as a whole was clearly commercial and promotional in nature. Besides promoting the advertised products, it also promoted the medical services of the medical centre and the doctors therein, including the Defendant.
8. Doctors in Hong Kong are permitted to disseminate their practice information to the public for the purpose of facilitating the public to make an informed choice of doctors to consult. However, such dissemination must comply with the rules laid down in the Code of Professional Conduct.

9. Commercial practice promotion and advertisement by doctor are not permitted. As is stated in the Code of Professional Conduct, “*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*”.
10. We are satisfied that the Defendant’s conduct in publishing the booklet to promote his practice and the services of the medical centre has fallen below the standard expected amongst registered medical practitioners. We find him guilty of professional misconduct as charged.
11. We are particularly concerned that one of the doctors purportedly practising at the medical centre had in fact resigned even before the publication of the booklet. In the booklet, there was ample glorification of the experience and expertise of the resigned doctor in paediatric medicine, both internationally and locally. In other words, the booklet contained false representation of the medical services available at the medical centre. The only reasonable inference was that it was done for the purpose of bolstering the quality of the medical services of the centre to attract patients, which would ultimately benefit the Defendant’s practice. While this is not an element of the charge and thus has not formed a part of the basis for our judgment, it reflects on the gravity of the case.
12. We must also point out that at page 8 of the parenting magazine with which the booklet was distributed, there was a full-page advertisement of the medical centre and the Defendant. Again, as the charge is confined to the booklet, this has not influenced our judgment on the charge. It only shows the commercial nature of the booklet.

Sentencing

13. The Defendant has a clear record.
14. In accordance with our published policy, we shall give him full credit for admitting all the allegations and accepting full responsibility for publishing the booklet at the earliest opportunity during preliminary investigation.

15. We accept what the Defence Solicitor clarified during mitigation that the resigned doctor had stayed on in the medical centre for eight months after publication of the booklet, thus we shall disregard what we have said about the booklet containing false representation of the medical services available at the medical centre.
16. Nevertheless, we cannot accept that the final version of the booklet was published without clearance by him. As is clearly stated in the booklet, the Defendant was the chief editor of the booklet. It was a well-planned project by the medical centre in collaboration with the publisher, involving a large number of advertisements and detailed descriptions of each doctor's services and achievements. The Defendant could not have been unaware of the information to be published in the booklet, in particular the three pages of introduction of the medical centre and the doctors.
17. This Council has issued a clear warning in June 2006 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 would take immediate effect. The same warning has been repeated many times over the years. We must sentence having full regard to the warning, otherwise a wrong message will be sent to the profession that this Council is relenting on its efforts to weed out unauthorized practice promotion or advertisements.
18. Having regard to the gravity of the case and giving the greatest discount for the mitigation fact of full and frank admission at the earliest opportunity, we make the following orders:-
 - (a) The Defendant's name be removed from the General Register for a period of 1 month.
 - (b) The removal order be suspended for a period of 12 months, subject to the condition that he shall not commit any further disciplinary offence during the suspension period. If he commits any further disciplinary offence during the suspension period (irrespective of the time of conviction), the removal order is liable to be activated in part or in full.

19. We must emphasise that if not because of the strong mitigating factor of full and frank admission at the earliest opportunity and his responsible attitude afterwards, the sentence would not be so lenient. We advise the Defendant to treasure the opportunity that we have given him, and take particular care to ensure that he stays within the bounds of medical ethics in his future practice.

Other remarks

20. The Defendant's name is included in the Specialist Register under the specialty of "Paediatrics". While it is for the Education and Accreditation Committee to decide whether any action should be taken in respect of his specialist registration under section 20N of the Medical Registration Ordinance, we are of the view that this case does not reflect adversely upon his specialist competence in Paediatrics.

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