

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE MEDICAL COUNCIL OF HONG KONG
DR LAM LIN MEI ALICE (REGISTRATION NO.: M13353)

It is hereby notified that after due inquiry held on 7 April 2017 in accordance with section 21 of the Medical Registration Ordinance, Chapter 161 of the Laws of Hong Kong, the Medical Council of Hong Kong found Dr LAM Lin Mei Alice (Registration No.: M13353) guilty of the following disciplinary offences:—

‘That in or about November 2010, she, being a registered medical practitioner:—

- (a) sanctioned, acquiesced in or failed to take adequate steps to prevent the use or publication of her name, title, qualifications, photograph and/or interview records or statements in an advertisement or article published in the 18 November 2010 issue of Headline Daily (‘Advertisement’), promoting or endorsing (directly or indirectly) the product ‘Lanakeloid-E’; and
- (b) sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of the qualifications of ‘加拿大達爾侯斯大學醫學博士’, ‘加拿大達爾侯斯大學劑藥學學士’ and ‘加拿大醫務委員會執照’ in the Advertisement, which are not quotable qualifications approved by the Medical Council of Hong Kong.

In relation to the facts alleged, either singularly or cumulatively, she has been guilty of misconduct in a professional respect.’

Dr LAM was at all material times a registered medical practitioner. Her name has been included in the General Register from 2 January 2002 to present and her name has never been included in the Specialist Register.

According to Dr LAM, sometime in or around October 2010, a sales representative of a pharmaceutical company by the name of Hang Lung Trading (H.K.) Company (‘Hang Lung’) came to her clinic and asked her to write an article about treatment of scar for public health education purpose. Dr LAM had met this sales representative a few times before as she sometimes ordered medical products from Hang Lung.

During the interview, an active ingredient, namely, Centella Asiatica Phytosome, Vitamin E, was mentioned by Hang Lung’s sales representative and Dr LAM expressed her view that this was good for healing and reduction of scar formation. Dr LAM also agreed to write a short article on scar management and wound healing process for education purpose.

According to Dr LAM, a few days after the interview, a piece of short script in the format of a dialogue between her and her patient (the ‘Draft Article’) was sent to her for review and approval. Reference was made in the dialogue to Centella Asiatica Phytosome, Vitamin E and its effect on wound healing. Also included in the Draft Article were the name, title, qualifications and photograph of Dr LAM.

The article approved by Dr LAM [the ‘Approved Article’] subsequently appeared in an advertisement published in the 18 November 2010 issue of Headline Daily (the ‘Advertisement’). Immediately below the Approved Article was the promotional material for a medical product under the trade name ‘Lanakeloid-E’ [the ‘Product’]. In the Advertisement, the ingredient of the Product, namely, Centella Asiatica Phytosome, Vitamin E, was prominently displayed and the Product was stated to be strongly recommended by specialists in dermatology over the world.

There is no dispute that the Advertisement was placed by Hang Lung for promotion of the Product in Hong Kong.

The Medical Council subsequently received the present complaint against Dr LAM on 22 November 2010.

In the Medical Council’s view, the Advertisement taken as whole would lead the readers into thinking that Dr LAM was endorsing and/or promoting the Product. The fact that the trade name of the Product had not been mentioned in the Approved Article was of no consequence.

Dr LAM sought to convince the Medical Council that she did not know that the Approved Article would be published together with the Advertisement. However, section 6 of the Code of Professional Conduct (2009 edition) [the ‘Code’] provides that:—

‘6.1 It is appropriate for a doctor to take part in bona fide health education activities, such as lectures and publications. However, he must not exploit such activities for promotion of his practice or to canvass for patients...’

6.2 doctor should take reasonable steps to ensure that the published or broadcasted materials, either by their contents or the manner they are referred to, do not give the impression that the audience is encouraged to seek consultation from him... He should also take reasonable steps to ensure that the materials are not used directly or indirectly for the commercial promotion of any medical... products...’

Dr LAM ought to ensure that the information that she gave in an interview was not to be used in such a manner that would be regarded as commercial promotion for any medical products. The crux of the matter therefore lay in whether Dr LAM had already exercised due diligence to prevent this from happening.

It is clear from the evidence that Dr LAM never asked Hang Lung how and where the Approved Article would be published. Given her knowledge that Hang Lung was a pharmaceutical company in Hong Kong, Dr LAM should have asked for a written undertaking from Hang Lung that (1) the Approved Article would not be published in a manner which might reasonably be regarded as suggesting her endorsement of any medical products; and (2) the Approved Article would not be placed in close proximity to any advertisement for medical products.

For the reasons mentioned above, the Medical Council was satisfied on the evidence that Dr LAM’s conduct as particularized under charge (a) had fallen below the standards reasonably expected of registered medical practitioners in Hong Kong. Accordingly, the Medical Council found Dr LAM guilty of professional misconduct as charged.

Dr LAM admitted that she had sanctioned, acquiesced in or failed to take adequate steps to prevent publication in the Advertisement the qualifications mentioned in charge (b) above, which were at the material time not quotable qualifications approved by the Medical Council.

Section 5.2.2.1 of the Code provides that:—

‘Practice promotion means publicity for promoting the professional services of a doctor... Practice promotion in this context will be interpreted by the Medical Council in its broadest sense, and includes any means by which a doctor or his practice is publicized, in Hong Kong or elsewhere, by himself or anybody acting on his behalf or with his forbearance (including the failure to take adequate steps to prevent such publicity in circumstances which would call for caution), which objectively speaking constitutes promotion of his professional services, irrespective of whether he actually benefits from such publicity.’

Section 5.2.2.2 also provides that:—

‘Practice promotion by individual doctors, or by anybody acting on their behalf or with their forbearance, to people who are not their patients is not permitted except to the extent allowed under section 5.2.3.’

There is no dispute that reference was made to Dr LAM’s qualifications in circumstances other than those permitted under section 5.2.3 of the Code. Moreover, none of the qualifications mentioned in charge (b) were quotable qualifications. The Medical Council therefore considered that Dr LAM’s conduct had fallen below the standards reasonably expected of registered medical practitioners in Hong Kong and found Dr LAM guilty of professional misconduct as charged.

Taking into account the whole circumstances of this case and Dr LAM’s plea of mitigation, the Medical Council made a global order that Dr LAM’s name be removed from the General Register for a period of one month and the removal order be suspended for a period of one year.

The orders are published in the Gazette in accordance with section 21(5) of the Medical Registration Ordinance. The full decision of the Medical Council is published in the official website of the Medical Council of Hong Kong (<http://www.mchk.org.hk>).

LAU Wan-ye, Joseph Chairman, *The Medical Council of Hong Kong*