

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE MEDICAL COUNCIL OF HONG KONG
DR TAM THOMAS CHRIS (REGISTRATION NO.: M10093)

It is hereby notified that after due inquiry held on 19 March 2019 in accordance with section 21 of the Medical Registration Ordinance, Chapter 161 of the Laws of Hong Kong, the Inquiry Panel of the Medical Council of Hong Kong found Dr TAM Thomas Chris (Registration No.: M10093) guilty of the following disciplinary charges:—

‘That, during the period from about 2012 to 2016, Dr TAM Thomas Chris, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:—

- (a) the use of the title ‘Cosmetic Dermatologist’ in his profile in the LinkedIn website (‘the Website’), which was not a quotable qualification approved by the Medical Council of Hong Kong and/or was misleading to the public that he was a specialist in dermatology, when in fact he had not been approved by the Medical Council of Hong Kong to have his name included in the Specialist Register under the speciality of ‘Dermatology and Venereology’; and
- (b) the publication of the impermissible advertisement(s) which claimed ‘Best Prices in Hong Kong’ in the HK Magazine on its issue(s) of 3 and 17 August 2012 in respect of his practice in association with Dr. Image Laser & Medical Skin Care Center and/or Dr. Image Laser, Aesthetic & Medical Skin Care Center and/or Dr. Image Laser & Medical Skin Care Limited (collectively referred to as ‘the Center’).

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

Briefly stated, by a letter dated 3 September 2012, the Hong Kong College of Dermatologists complained to the Medical Council that the name of Dr TAM was quoted in the LinkedIn website as a specialist in dermatology. Attached to the complaint letter was a copy of the information downloaded from the LinkedIn website.

Also attached to the complaint letter were copy advertisements found in the 3 and 17 August 2012 issues of the HK Magazine in which one Dr. Image Laser Aesthetic & Medical Skin Care Center claimed to offer ‘Best Prices in Hong Kong’ for a range of cosmetic medical treatments to be ‘performed by ... Cosmetic Dermatologists’.

There was no dispute that the name of Dr TAM had never been included in the Specialist Register, let alone under the speciality of Dermatology and Venereology.

It was clearly stated in paragraph 7.2 of the 2009 edition of the Code of Professional Conduct (‘the Code’) 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 speciality), such as ‘doctor in dermatology’...’.

Dr TAM admitted that he had applied for a LinkedIn account some time in or around 2011.

The Inquiry Panel was of the view that the use of the title of ‘Cosmetic Dermatologist’ in his profile in the LinkedIn website implied that Dr TAM specialized in the area of dermatology but when in fact he was not a specialist in Dermatology and Venereology.

The Inquiry Panel was of the view that the use of the title of ‘Cosmetic Dermatologist’ in his profile in the LinkedIn website would serve to promote the professional advantage to him, and was no doubt a form of unauthorized practice promotion.

That being the case, the Inquiry Panel was satisfied on the evidence before it that Dr TAM had sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the offending title in his profile in the LinkedIn website. Accordingly, the Inquiry Panel found Dr TAM guilty of charge (a).

As to charge (b), it was clearly stated in paragraph 5.2.3.8 of the Code that:—

‘A doctor may publish his service information in *bona fide* newspapers, magazines, journals and periodicals for the purpose of enabling the public to make an informed choice of doctors.

A publication published for the predominant purpose of promotion of the products or services of a doctor or other persons is not regarded as a newspaper, magazine, journal or periodical for this purpose.’

Paragraph 5.2.1 of the Code also provides that:—

‘A doctor providing information to the public or his patients must comply with the principles set out below.

5.2.1.1 Any information provided by a doctor to the public or his patients must be:—

- (a) accurate,
- (b) factual,
- (c) objectively verifiable,
- (d) presented in a balanced manner...

5.2.1.2 Such information must not:—

- (a) be exaggerated or misleading,
...
- (d) aim to solicit or canvass for patients,
- (e) be used for commercial promotion of medical and health related products and services...,
- (f) be sensational or unduly persuasive
...

Paragraph 18.2 of the Code further provides that:—

‘A doctor who has any kind of financial or professional relationship with, uses the facilities of, or accepts patients referred by, such an organization, must exercise due diligence (but not merely nominal efforts) to ensure that the organization does not advertise in contravention of the principles and rules applicable to individual doctors. Due diligence shall include acquainting himself with the nature and content of the organization’s advertising, and discontinuation of the relationship with an organization which is found to be advertising in contravention of the principles and rules.’

The Inquiry Panel acknowledged that the phrase ‘predominant purpose of promotion’ was not defined in paragraph 5.2.3.8 of the Code. However, this ought to be read in conjunction with the basic principles for professional communication and information dissemination set out in paragraph 5.1 of the Code. In this connection, it was clearly stated in paragraph 5.1.3 of the Code that:—

‘Persons seeking medical service for themselves or their families can nevertheless be particularly vulnerable to persuasive influence, and patients are entitled to protection from misleading advertisements. Practice promotion of medical services as if the provision of medical care were no more than a commercial activity is likely to undermine public trust in the medical profession and, over time, to diminish the standard of medical care.’

The Inquiry Panel wished to emphasize that dissemination of service information by a doctor to the public was permissible provided that he or she complied with the principles set out in paragraph 5.2.1 of the Code. This was so even if it was also for commercial gain. However, excessive commercialism i.e. advertising medical services as if the provision of medical care were no more than a commercial activity was not permitted.

The Inquiry Panel was firmly of the view that the use of this statement ‘Best Prices in Hong Kong’ for the promotion of a range of cosmetic medical treatments was not only sensational and unduly persuasive but also a classic case of excessive commercialism.

Dr TAM never denied that he was aware of the publication of the Advertisements. It was evident from the evidence before the Inquiry Panel that Dr TAM was at all material times closely associated in his medical practice with Dr. Image Laser, Aesthetic & Medical Skin Care Center. Accordingly, he had a personal duty, to exercise due diligence, which he failed in our view, to prevent the publication of the offending Advertisements.

For these reasons, the Inquiry Panel found Dr TAM’s conduct to have fallen below the standards expected of registered medical practitioners in Hong Kong. Therefore, the Inquiry Panel also found him guilty of charge (b).

In July 2006, the Inquiry Panel issued a clear warning that all future cases of unauthorized practice promotion would be dealt with by removal from the General Register for a short period with suspension of operation of the removal order, and in serious cases the removal order would take immediate effect. The same warning was repeated in subsequent disciplinary decisions of the Inquiry Panel.

The Inquiry Panel accepted that he has learnt his lesson and also appreciated that he is remorseful of his misdeeds.

Having considered the nature and gravity of the charges for which Dr TAM was found guilty and his plea of mitigation, the Inquiry Panel ordered in respect of charges (a) and (b) that Dr TAM's name be removed from the General Register for a period of 1 month and the operation of the removal order be suspended for a period of 12 months.

The order is published in the *Gazette* in accordance with section 21(5) of the Medical Registration Ordinance. The full decision of the Inquiry Panel 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*