

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE INQUIRY PANEL OF  
THE MEDICAL COUNCIL OF HONG KONG

DR CHAN LAP MING (REGISTRATION NO.: M13986)

It is hereby notified that after due inquiry held on 24 July 2020 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 ('Inquiry Panel') found Dr CHAN Lap Ming (Registration No.: M13986) guilty of the following disciplinary charges:—

*'That in or about February 2018, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:*

(a) *the publication of promotional information about the provision of beauty service(s) and/or treatment(s) on a social media website, the Facebook page of his clinic, namely LM SKINCENTRE ('LM SKINCENTRE'), including the following statements:*

- (i) *'優惠由即日起至1月31日，數量有限'；*
- (ii) *'半價優惠'；*
- (iii) *'優惠期：12月31日至1月31日'；*
- (iv) *'一月療程優惠，低至75折！'；*
- (v) *'二月療程優惠，低至75折！'；*
- (vi) *'Probably one of the best skin centre that I've been to in Hong Kong. Dr CHAN was very attentive to my skin problems a...';*
- (vii) *'Excellent services and professional advice. Dr CHAN, Carrie, and all staff are perfect.'; and*
- (viii) *'Professional doctor, great customer service and wide range of treatments'; and/or*

(b) *the publication of statements which exaggerate the efficacy of aesthetic medical practice and/or treatment(s) on a social media website, the Facebook page of LM SKINCENTRE, including the following statements:*

- (i) *'4cm<sup>2</sup>探頭，大大減低治療發數；*
- (ii) *'3D振動，帶來最強舒適度'；*
- (iii) *'收緊提升新突破'；*
- (iv) *'Tighten up new breakthroughs!'; and*
- (v) *'更快、更舒適'.*

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

Dr CHAN was at all material times and still is included in the General Register. His name has been included in the General Register from 3 July 2003 to present. His name has never been included in the Specialist Register.

Dr CHAN admitted the factual particulars of the disciplinary charges against him.

Briefly stated, the Medical Council received a letter from one L C WONG on 12 February 2018 complaining Dr CHAN of practice promotion in the Facebook page of LM SKINCENTRE.

Attached to the complaint letter were relevant extracts from the said Facebook page; and copies of the same are placed by the Legal Officer for consideration by the Inquiry Panel.

The Legal Officer also adduced the company search result of LM SKINCENTRE as evidence to show that Dr CHAN was at the material time a director and shareholder of LM Skin Centre Limited. The registered office address of this company was the same as the business address of LM SKINCENTRE shown in the said Facebook page.

Indeed, Dr CHAN's name also appeared right next to the name LM SKINCENTRE in the said Facebook page.

There was no dispute that Dr CHAN had at the material time a professional relationship with LM SKINCENTRE. In the view of the Inquiry Panel, discount offers in the said Facebook page, which formed the subject of disciplinary charges (a)(i) to (v), were posted for the purpose of canvassing patients to LM SKINCENTRE and a form of impermissible promotion on behalf of Dr CHAN. Besides, the Inquiry Panel also opined that publication of laudatory statements of Dr CHAN in the said Facebook page, which formed the subject of disciplinary charges (a)(vi) to (viii), was also promotional of Dr CHAN's professional practice.

It is clearly stated in the Code of Professional Conduct (2016 edition) (the 'Code') that:—

*5.1.3 ... Practice promotion of doctor's 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.*

...

*5.2.2.1 Practice promotion means publicity for promoting the professional services of a doctor, his practice or his group... Practice promotion in this context will be interpreted by the 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.*

...

*18.1 Medical and health products and medical services are offered by a variety of organizations. The Council does not have jurisdiction over such organizations. However, subject to section 18.2, disciplinary action will be taken against a doctor where an advertisement in the name of the organization is in effect promotion of the doctor's practice. In this respect, the Council will look at the actual effect of the advertisement.*

*18.2 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.'*

For the reasons above, the Inquiry Panel found Dr CHAN guilty of professional misconduct in respect of disciplinary charges (a)(i) to (viii).

Turning to disciplinary charges (b)(i) to (v), it is clearly stated in the Code that:—

*5.2.1 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 (when referring to the efficacy of particular treatment, both the advantages and disadvantages should be set out).*

*5.2.1.2 Such information must not:*

- (a) be exaggerated or misleading;*
- (b) be comparative with or claim superiority over other doctors*
- (c) claim uniqueness without proper justifications for such claim;*
- (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;*

...

(h) *generate unrealistic expectations;*

...

The Inquiry Panel was satisfied on the evidence that the statements, which formed the subject of disciplinary charges (b)(i) to (v), had exaggerated the efficacy of aesthetic medical practice and/or treatments to be offered by Dr CHAN at LM SKINCENTRE and claimed superiority over others. And in the view of the Inquiry Panel, not only were these statements unduly sensational and persuasive, they might even generate unrealistic expectations amongst the readers.

In sanctioning, acquiescing in and/or failing to take reasonable steps to prevent the publication in the said Facebook page of these offending statements, which formed the subject of disciplinary charges (b)(i) to (v), Dr CHAN had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong and accordingly found him guilty of professional misconduct in respect of disciplinary charges (b)(i) to (v).

The Inquiry Panel accepted that Dr CHAN had learnt his lesson and noticed that the offending contents of the said Facebook page were quickly removed after he was notified of the complaint.

Having considered the nature and gravity of this case and the mitigation advanced by Dr CHAN's legal representative, the Inquiry Panel ordered that Dr CHAN's name be removed from the General Register for a period of 1 month and that the operation of the removal order be suspended for a period of 12 months.

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

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