

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR HA KWOK LEUNG (REGISTRATION NO.: M13884)

It is hereby notified that after due inquiry held on 29 December 2021 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 HA Kwok Leung (Registration No.: M13884) guilty of the following disciplinary charges:—

'That in or about July 2015, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of his name, title, photograph and/or promotional information, which promoted his practice and/or the product of 'Cleviel' offered by Face It, in internet blogs, namely:—

(a) <http://seller.weshare.hk/lissiyil/articles/4544101>;

(b) <https://www.beautyexchange.com.hk/blog/%E6%96%B0%E4%B8%80%E4%BB%A3%E5%BE%E6%95%B4%E5%BD%A2%20Face%20it%E2%80%93%20Rejuvenation%20Solutions%E3%80%90CLEVIEL%20%E9%9F%93%E5%9C%8B%20%E3%80%911146096;and/or>

(c) <http://yobi.blogspot.com/2015/07/face-it-rejuvenation-solutions-cleviel.html>.

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

Dr HA Kwok Leung's name has been included in the General Register from 3 July 2003 to the present and his name has never been included in the Specialist Register.

Briefly stated, the Secretary of the Medical Council (the 'Council') received two complaint emails from one Madam FUNG accusing Dr HA of professional misconduct. In support of her complaint, Madam FUNG also provided the Secretary with hyperlinks to 3 internet blogs and copy extracts of the blog posts.

The Secretary subsequently downloaded on 15 April 2019, 20 April 2020 and 20 April 2020 respectively *via* the hyperlinks provided by Madam FUNG the full version of the blog posts, which formed the subjects of the disciplinary charges (a), (b) and (c) against Dr HA.

In response to the complaint, Dr HA admitted in his written submission to the Preliminary Investigation Committee ('PIC') that he was invited by the local distributor of the product of 'Cleviel' 'to perform a demonstration of filler injection on a blogger ('the Event')... and was told that bloggers would attend and write about the Event...'.
Dr HA also told the PIC that the Event was subsequently held on 14 July 2015 at the Causeway Bay Clinic of Face It Limited ('FACE IT'); and he was at all material times an employee of FACE IT.

Dr HA admitted through his solicitor that he failed to take adequate steps to prevent the publication of his name, title, photograph and/or promotional information, which promoted his practice and/or the product of 'Cleviel' offered by FACE IT, in internet blogs, which formed the subjects of the disciplinary charges against him.

In this connection, it is stipulated in the Code of Professional Conduct (2016 edition) ('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.*

...

5.2.1 *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:—*

...

(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:—

...

(d) aim to solicit or canvass for patients;

(e) be used for commercial promotion of medical and health related products and services ...;

...

5.2.2 Practice promotion

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.

5.2.2.2 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.

...

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 A 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 or treatment from him or organizations with which he is associated. He should also take reasonable steps to ensure that the materials are not used directly or indirectly for the commercial promotion of any medical and health related products or services.

...

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 ...'

Dr HA was at all material times an employee of FACE IT; and Dr HA was fully aware that bloggers would attend the Causeway Bay Clinic of FACE IT and write about the Event.

The Inquiry Panel noted from reading the blog posts downloaded from the hyperlinks related that the product of 'Cleviel' was claimed to be of superior quality and provided user with a lasting filler. There was however no mention of disadvantages about treatment by filler injections. Moreover, a 20% discount was offered for readers of the blog posts to which the disciplinary charges related. The Inquiry Panel was of the view that those blog posts were a form of commercial promotion for the product of 'Cleviel' offered by FACE IT.

And readers of those blog posts would be left with an impression that Dr HA was knowledgeable of the product of 'Cleviel' and skillful in administering filler injections. That was in the view of the Inquiry Panel also a form of practice promotion for Dr HA.

In failing to take any or any adequate steps to prevent the publication of his name, title, photograph and/or promotional information, which promoted his practice and/or the product of 'Cleviel' offered by FACE IT, in internet blogs, which form the subjects of the disciplinary charges

against him, Dr HA's conduct as such had fallen below the standards expected of registered medical practitioners in Hong Kong. The Inquiry Panel found Dr HA guilty as charged

The Inquiry Panel was particularly concerned about the offer of discount in the blog posts. In his PIC submission, Dr HA mentioned that *'he did not realize that images of him taken at the Event were posted by the bloggers in the articles until he received the 2nd PIC Notice'* dated 9 July 2021. This illustrated in the view of the Inquiry Panel that Dr HA did not bother to find out what the bloggers had written about the Event.

Taking into consideration the nature and gravity of the disciplinary charges and what was heard and read in the mitigation, the Inquiry Panel made a global order in respect of charges (a) to (c) that Dr HA's name be removed from the General Register for a period of 6 months. The Inquiry Panel further ordered that the operation of the removal order be suspended for a period of 24 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 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*