

CHIROPRACTORS COUNCIL Inquiry Committee

DISCIPLINARY INQUIRY

Dates of hearing: 11 July 2016 (Day 1), 26 September 2016 (Day 2).

Respondent: Dr LEE Hin Yim (Registration No. CC000080)

1. The Respondent, Dr LEE Hin Yim, is charged with the following charges:-

“You, being a registered chiropractor, on or about 22 July 2008

- (a) improperly used in your information pamphlet the Chinese title of “腦神經科專科醫生” which in law could only be used by a registered medical practitioner included in the Specialist Register of Medical Practitioners under the specialty of “Neurology” by virtue of section 20M of the Medical Registration Ordinance, Cap. 161;
- (b) improperly used in your information pamphlet the title of “Chiropractic Neurologist” which was misleading;

and that in relation to the facts alleged, either individually or cumulatively, you have been guilty of misconduct in a professional respect.”

Facts of the case

2. On 22 July 2008 the Complainant took her 11-year old daughter to consult the Respondent in respect of the daughter’s learning difficulty and/or attention deficit. The Respondent asked the Complainant to sign a “Declaration & Authorization” authorizing him to examine the daughter. After conducting some examinations for about an hour, he recommended a course of treatment for one year in order to improve the daughter’s brain function. He instructed his nurse to give his information pamphlet to the Complainant to facilitate her in deciding on

whether to take the recommended treatment.

3. The information pamphlet was in Chinese, with the name, address and telephone number of the Respondent's clinic "Lee Chiropractic Neurology Center 李憲嚴腦神經暨脊醫中心" printed at the end. In the pamphlet, there was a section with the underlined heading "腦神經科專科醫生 (Chiropractic Neurologist)". These Chinese and English titles are the subject matters of Charges (a) and (b) respectively.
4. After the Complainant returned home, she tried to verify the Respondent's qualifications and discovered that the Respondent was not a registered medical practitioner but was only a registered chiropractor. She then made a complaint to the Chiropractors Council.

Findings of Inquiry Committee

5. The proper title for a person registered under section 10 of the Chiropractors Registration Ordinance is "registered chiropractor". There is no provision for using other titles, either in the Ordinance or in the Code of Practice.
6. Section 3.7.4.1(a)(ii) Note 2 of the Code of Practice provides that "It is the responsibility of the registered chiropractor to ensure that his use of any title does not contravene any law of the Hong Kong SAR."
7. A chiropractor who has received further training in a particular area may indicate his training by quoting the relevant qualification (if it is a quotable qualification) which he has acquired. Similarly, a chiropractor who chooses to limit his practice to a particular area may indicate such in the description of his practice. However, he cannot adopt a title which suggests that he is an expert or specialist in that area.
8. Under section 20M of the Medical Registration Ordinance, only a registered medical practitioner whose name is included in the Specialist Register under a particular specialty is entitled to be known in English as "specialist" in that specialty and in Chinese as "專科醫生" in that specialty. In other words, only a registered medical practitioner whose name is included in the Specialist Register under the specialty of "Neurology (腦神經科)" is entitled to be known as "腦神經科專科醫生" or "Specialist in Neurology".

9. Under section 28(1)(b) of the Medical Registration Ordinance, any person who wilfully or falsely takes or uses any name, title, addition or description implying that his name is included in the Specialist Register commits an offence and is liable to a fine at level 6 and to imprisonment for 3 years.
10. As the Respondent was neither a registered medical practitioner nor included in the Specialist Register of Medical Practitioners, he could not use the title “腦神經科專科醫生” or “Specialist in Neurology”.
11. Section 3.10 of the Code of Practice provides that “Any registered chiropractor who uses any title or description which may reasonably suggest that he possesses any professional status or qualifications, other than those which he in fact possesses and which are indicated by the particulars entered against his name in the register, may also be guilty of misconduct.” As the Respondent was not a “腦神經科專科醫生”, he did not possess such status or qualification and so could not use such title.
12. The Respondent gave evidence in the inquiry. He did not dispute that he, through his nurse, gave to the Complainant his information pamphlet containing the Chinese and English titles in question. His explanation for using the titles in question was that “*After obtaining the title of ‘Diplomate of the [American Chiropractic Neurology Board], I always consider myself to be a chiropractor specializing in neurology, or in short a ‘Chiropractic Neurologist’...I was given the understanding that there are no official translation available....For ‘Chiropractic Neurologist’, ‘腦神經科專科醫生’ was the best Chinese translation that I can think of at that time.*” When being questioned why he did not include the element of “chiropractic” in the Chinese translation, he replied that if he did it would be too long and confusing.
13. Although the title “neurologist” is not in the same form as the statutorily prescribed title “Specialist in Neurology” reserved for specialist medical doctors, in daily language a neurologist generally refers to a medical doctor specializing in neurology. Even if the title “neurologist” is prefixed with the description “chiropractic”, it misleadingly suggests that the person is a specialist medical doctor, particularly when it is used side by side with the Chinese title ‘腦神經科專科醫生’.
14. There is no merit in the Respondent’s argument that he could call himself a “Chiropractic Neurologist” by reason of his qualification of

Diplomate of the American Chiropractic Neurology Board. While he could indicate his further training in chiropractic neurology by quoting the qualification “Diplomate, American Chiropractic Neurology Board”, it was not open for him to adopt the title in conjunction with the Chinese title “腦神經科專科醫生” which misleadingly suggested that he was a specialist medical doctor.

15. We are of the view that the Respondent chose the titles “Chiropractic Neurologist” and “腦神經科專科醫生” knowing that they referred to a specialist medical doctor, for the following reasons:-

- (a) According to him, the best Chinese translation for “Chiropractic Neurologist” was “腦神經科專科醫生”. In his understanding the two were the same. As the Chinese title clearly referred to a specialist medical doctor, it reflected his understanding that the English title also referred to a specialist medical doctor.
- (b) In the Respondent’s “Declaration and Authorizations” form for obtaining patients’ consent to examination and treatment, it was stated that the patient “同意接受李憲嚴腦神經科暨脊骨神經科醫生為本人…作出…身體檢查”. The Respondent agreed that in the quoted passage he called himself both “腦神經科醫生” and “脊骨神經科醫生”. As this was a standard printed form for obtaining consent from patients, it showed that he deliberately held himself out to all his patients as a specialist medical doctor in addition to being a chiropractor.
- (c) The Respondent set out neurology and chiropractic as two separate disciplines in both the Chinese name of the clinic (i.e. 腦神經暨脊醫) and his Chinese title in the “Declaration and Authorizations” form (i.e. 腦神經科暨脊骨神經科). The plain and natural interpretation of such descriptions was that the Respondent had dual qualifications as both a neurologist and a chiropractor.
- (d) The titles were used in a printed information pamphlet for patients seeking his professional service, not in casual conversation which may consist of loose choice of wording. Given his professional duty to ensure the accuracy of the contents, he must have scrutinized the contents including the titles before putting the pamphlet to print.

16. The Respondent argued that the titles “Chiropractic Neurologist” and “腦神經科專科醫生” would not mislead the readers, as the elaborations under that heading in the pamphlet clarified that he was a chiropractor but not a medical doctor. We disagree. If a title was misleading, the elaborations below it could only mitigate the confusion already caused and might even confound the reader further. Furthermore, the elaborations in the pamphlet did not clarify that the Respondent was not a medical doctor.
17. We are satisfied that the Respondent’s conduct in using the titles “腦神經科專科醫生” and “Chiropractic Neurologist” has clearly fallen short of the standard expected amongst registered chiropractors and constituted professional misconduct. We find him guilty of Charge (a) and Charge (b).

Sentencing

18. The Respondent has a clear record.
19. We bear in mind that the purpose of a disciplinary order is not to punish the Respondent, but to protect the public from persons who are unfit to practise chiropractic and to maintain public confidence in the profession by upholding the reputation of the profession.
20. In mitigation, Counsel for the Respondent said that since being informed of the complaint the Respondent has ceased to use the offending Chinese and English titles, and has amended the “Declaration and Authorization” consent form accordingly. However, he refused to produce the amended consent form to support the allegation. Furthermore, Counsel for the Respondent confirmed categorically that the Respondent has ceased to use any Chinese name for his clinic. However, it turned out that this was factually untrue and the Respondent blamed it on the nurse who was responsible for updating his website. We must say that we cannot accept such explanation, particularly that before the relevant submission Counsel for the Respondent had been reminded twice to ensure that what he said in mitigation must be factually correct.
21. Nevertheless, we shall not allow what happened in mitigation to affect sentencing, and we shall sentence only with regard to the charges and the gravity of the case. The net result is that we do not accept the

aforementioned points of mitigation, as we cannot be satisfied of the truth of such points and the Respondent refused to produce any supporting evidence when such evidence should be readily available (such as the amended consent form and the name of the Respondent's clinic on the building directory or the clinic signboard). We shall disregard the aforementioned points of mitigation.

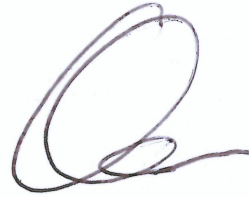
22. Having regard to the gravity of the case and the Respondent's clear record, we order that a warning letter be served on the Respondent in respect of both charges. The order shall be published in the newspapers according to the provisions of section 21 of the Chiropractors Registration Ordinance.

Other remarks

23. We are obliged to make the following remarks, although our concerns as reflected in the remarks have not affected our decision in sentencing:-

- (a) The Inquiry Committee is a statutory tribunal and the inquiry is a statutory proceeding conducted in accordance with the provisions of the Chiropractors Registration Ordinance. It is a serious matter to mislead the Committee by untrue, incorrect or misleading submission. We are particularly concerned that factually untrue submission was made by Counsel for the Respondent during mitigation. While we refrain from making any finding on the reasons for such untrue and misleading submission, we must remind both the Respondent and Counsel for the Respondent of their professional duty to ensure the truth of the submissions and not to mislead the tribunal. Regrettably this does not seem to have been observed. Both the Respondent and Counsel for the Respondent are advised to take particular caution to ensure that the problem will not happen again.
- (b) Although the charges are in relation to the offending titles in the Respondent's information pamphlet, it is noted that there are similar problems in the Respondent's consent form and the name of the Respondent's clinic. Given the Respondent's professional duty not to mislead the public, he should carefully scrutinize all his practice stationery, signboards, pamphlets etc. which contain reference to his title and professional status to ensure that no misleading or improper titles or descriptions are used. If the Respondent is found guilty of further disciplinary offences in

connection with misleading or improper titles or descriptions, a very serious view will be taken in respect of the further offences.

A handwritten signature in purple ink, consisting of a large, stylized 'Q' shape with a horizontal tail extending to the right.

Dr Mazy LAM YIP Chin-may
Chairman, Inquiry Committee