

Formal Hearing under s. 26 of the *Chinese Medicine Registration Act 2000*

Antonia Dias-Ruhl

Panel Findings

1. On 28 March 2007 a Panel of the Chinese Medicine Registration Board of Victoria (“the Board”) conducted a formal hearing into professional conduct of **Antonia Dias-Ruhl**, (Ms Ruhl) a registered practitioner under the *Chinese Medicine Registration Act 2000* (‘the Act’).
2. The Panel comprised:
 - Fiona Mcleod SC (Chair)
 - Jocelyn Bennett
 - Vivienne Williams
3. The hearing proceeded by way of admitted facts. The Panel made findings of fact found in accordance with the admissions made by Ms Ruhl and material tendered into evidence.

Findings

4. In December 2001 Ms Ruhl completed out and signed an application form to become registered with the Board in the Division of Acupuncture.
5. On 28 June 2002 Ms Ruhl was registered with the Board in the Division of Acupuncture. She renewed registration in this Division in the years 2003 to June 2007 inclusive.
6. Ms Ruhl is not registered in the Division of Chinese herbal medicine practitioners.
7. At all times whilst she was registered in the Division of Acupuncturists, Ms Ruhl has provided infertility treatment to numerous patients.

Misleading Statements in relation to treatment, qualifications and skills

8. Ms Ruhl has engaged in conduct that is false, misleading or deceptive and/or that creates an unreasonable expectation of beneficial treatment by making the following false and misleading representations to her patients and prospective patients on promotional material including her web-site between 27 April 2006 and 22 May 2006:
 - a. That she has helped 90% of couples with fertility problems to have children.
 - b. That 90% of the couples she treated did not conceive on the IVF program but did with her.
 - c. That she had a 95% success rate in helping people conceive.

- d. That she had helped more than 10,000 women to conceive.
 - e. That her treatment provides a herbal cure for infertility, which has been researched by doctors and independent sources.
 - f. That she has a doctorate in traditional Chinese medicine.
 - g. That she is an expert in fertility treatment
 - h. That she provides advanced acupuncture techniques
9. This conduct constitutes unprofessional conduct. Such unprofessional conduct is of a serious nature.
10. On her business card Ms Ruhl represents that she has a wide range of qualifications (including PhD Philosophy; Dr. PN.SC; F.A.C.C.H; A.C.A; C.C.A; Acupuncture Member of the CMRB) to create the impression that she is more qualified in the area of fertility treatment than is the case.
11. This conduct constitutes unprofessional conduct. Such unprofessional conduct is not of a serious nature.

Breach of Advertising Guidelines in relation to offers made to patients

12. Ms Ruhl breached the Advertising Guidelines of the Chinese Medicine Registration Board by making the misleading representations alleged in paragraph 8 concerning the listing of her qualifications and further breach the Advertising Guidelines in that she:
- a) Offered free treatment in conjunction with paid treatments, without clearly explaining to patients what they are receiving for free and what they are paying for.
 - b) Charged herbs to her patients at a mark up of 744% to deliberately cover the cost of providing free treatments, meaning that she is not offering treatments for free at all.
13. Each of these breaches constitutes unprofessional conduct. Such unprofessional conduct is of a serious nature.
14. Further Ms Ruhl was not being honest and accurate in relation to a promotional offer called "Big O Jungle Fever" which was stated as being on sale for 3 days only, but was in fact left open for at least 13 days.
15. This conduct constitutes unprofessional conduct. Such unprofessional conduct is not of a serious nature.

Use of testimonials

16. Ms Dias Ruhl despite receiving written warnings from the Board in respect of the use of testimonials in November 2005, January 2006 and May 2006, has included patient

testimonials on her website between 27 April 2006 - 12 May 2006 in breach of Section 63(1)(c) of the Act.

17. Such conduct constitutes unprofessional conduct as it falls short of the standard expected of a registered practitioner. Such unprofessional conduct is of a serious nature.

Remote consultations

14. Ms Ruhl regularly in April and May 2006 conducted professional consultations with patients by phone and provided them with advice and treatment without ever having seen them.
15. Such conduct constitutes unprofessional conduct as it falls short of the standard expected of a registered practitioner. Such unprofessional conduct is of a serious nature

Herbal prescribing

16. Ms Ruhl is not registered in the herbalist division of practice. Nevertheless she prescribed and promoted Chinese and Brazilian herbs. Her methods in prescribing herbal medicine are inappropriate and fall short of the standard accepted of a Chinese medicine practitioner for the following reasons:
 - a) She did not keep a record of, or detail to patients the dosage or percentage of each ingredient used;
 - b) the herbal medicine provided does not record an expiry date or maximum period of storage after preparation;
 - c) The herbal medicine package does not detail the name and address of the prescribing practitioner;
 - d) The herbal medicine package does not provide any advice as to possible adverse reactions or warnings such as 'keep out of reach of children';
 - e) The majority of the ingredients listed are not easy to identify or research should a patient wish to make enquiries about them;
17. Your conduct in prescribing herbal medicines for any of these reasons constitutes unprofessional conduct. Such unprofessional conduct is not of a serious nature.

DETERMINATION

18. In accordance with these findings and bearing in mind the admissions made by the practitioner avoiding the need for a lengthy contested hearing and the undertakings given to the Panel and signed by Ms Ruhl this day but also bearing in mind the seriousness of the allegations and the abuse and potential abuse of vulnerable clients for the purpose of commercial gain the Panel makes the following determinations pursuant to s48(2):

- a) Ms Ruhl is cautioned pursuant to s48(2)(b);
- b) Ms Ruhl is reprimanded pursuant to s48(2)(c);
- c) Ms Ruhl pay a fine of \$5000 to the Board pursuant to s48(2)(f); ;
- d) Conditions be imposed on the registration of Ms Ruhl pursuant to s48(2)(e):
 - i) Within 30 days of this date she amend her website and all promotional material to remove all references to Doctor (including Dr); PhD; Chinese herbs and all testimonials (noting that the references to Chinese herbs and testimonials do not currently appear); and
 - ii) She undertake monthly supervision for a period of 12 months at her own cost with a Chinese medicine practitioner appointed in consultation with and approved by the Board in particular addressing:
 - a. claims in relation to treatment, qualifications and skills;
 - b. advertising practices;
 - c. use of testimonials and advertising guidelines;
 - d. use of remote consultations; and
 - e. dispensing of and charging for all herbs, treatments and medicines

such supervisor to report to the Board upon satisfactory completion at the conclusion of the supervision period and such condition to be monitored and adjusted as required by the Registrar of the Board.

F. M. McLeod
Panel Chair

28 March, 2007