

STATEMENT OF DECISION

Respondent:	Ms Mengyan 'Cayla' Fan
File number:	20/05366

1. Background

- 1.1 On 14 September 2020, the Health Care Complaints Commission ('the Commission') received a complaint from Client A regarding Ms Mengyan 'Cayla' Fan. Ms Fan was working as a beautician at Flair Beauty, Shop 1/3-9 Spring Street, Chatswood NSW 2067 ('the Practice'). Ms Fan is not currently registered as a nurse and has never held registration as a nurse in Australia.
- 1.2 Client A alleges that Ms Fan injected her face with hyaluronidase (Schedule 4 medication) on 27 October 2019. Schedule 4 medications require prescription by a registered medical practitioner. Only registered medical practitioners and nurses are allowed to administer cosmetic injectables. Further, nurses can only inject these products under the supervision of a medical practitioner and once they have completed requisite training.

2 Issues

- 2.1 The Commission identified the following issues for investigation:
- 2.1.1 Whether Ms Fan's treatment to Client A breached the Code of Conduct for Unregistered Health Practitioners (the Code of Conduct) (made under Schedule 3 of the *Public Health Regulation 2012*)
- 2.1.2 Whether Ms Fan poses a risk to the health or safety of members of the public.
- 2.2 The relevant clauses of the Code of Conduct in this case are:
- 2.2.1 Clause 3(1) which provides that, '*A practitioner must provide health services in a safe and ethical manner*'.
- 2.2.2 Clause 3(2)(b) which provides that '*A health practitioner must not provide care of a type that is outside his or her experience or training*'.
- 2.2.3 Clause 3(2)(c) which provides that, '*A health practitioner must not provide services that he or she is not qualified to provide.*'
- 2.2.4 Clause 15 which provides that, '*A health practitioner must keep appropriate records.*'

3 Respondent

- 3.1 Ms Fan is currently 29 years old. Ms Fan is originally from China. On 23 August 2019, Ms Fan was granted a Student Visa (subclass 500) in the Vocational Education and Training Sector. Ms Fan was enrolled in two courses at the United Colleges of Australia: Certificate IV in Aged Care and Diploma of Community Services. Ms Fan's Student Visa expires on 15 March 2022.

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- 3.2 As noted above, Ms Fan is not currently registered as a nurse and has never held registration as a nurse in Australia. Ms Fan does not hold any qualifications in beauty therapy.
- 3.3 According to the Practice, Ms Fan commenced work as a 'general beauty consultant' in March 2019. The Practice was closed in March/April 2020 due to COVID-19. It is unknown when the Practice reopened.
- 3.4 An Australian Securities and Investment Commission (ASIC) current and historical company extract reveals that Ms Fan was a company director of the Practice from 3 November 2018 to 15 November 2019. Ms Fan failed to provide this information to the Commission at any stage of the investigation.
- 3.5 Pursuant to section 41AA of the *Health Care Complaints Act 1993* (the Act), the Commission made an interim prohibition order restricting Ms Fan from providing health services, with effect from 2 December 2020. Further interim prohibition orders with the same terms have been made continuously, approximately every eight weeks since 2 December 2020.

4 Investigation

- 4.1 The Commission obtained information from the following sources in conducting its investigation:
 - 4.1.1 Complaint from Client A attaching SMS messages between Client A and the Practice, and various medical reports of Client A, including a Discharge Summary from Royal North Shore Hospital and Ambulance Invoice; and
 - 4.1.2 Responses from Ms Fan and the Practice.

5 Summary of Evidence

Client A's Complaint to the Commission dated 14 September 2019

- 5.1 On 22 September 2019, Client A, a 55-year-old female, attended the Practice for an injection of hyaluronic acid (dermal filler) to her face. This was administered by an unknown consultant.
- 5.2 Client A returned to the practice on 27 October 2019 to reverse the effects of the hyaluronic acid and Ms Fan injected hyaluronidase (schedule 4 medication). Client A immediately suffered an allergic reaction to the hyaluronidase and began experiencing facial flushing, swelling, rapid heartbeat and vomiting. Client A was taken to Royal North Shore Hospital by ambulance.
- 5.3 According to Client A she continues to experience the effects of the hyaluronidase and is under the care of specialists for investigation of her ongoing symptoms of numbness to her feet, damage to her leg nerves, dizziness and tinnitus.
- 5.4 Medical documentation provided by Client A confirms that she was taken to Royal North Shore Hospital by ambulance on 27 October 2019 from the Practice. Client A was given Adrenaline and Antihistamine which was noted to improve her symptoms immediately. By the time she arrived at the Emergency Department Client A was noted to have mild

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tachycardia, diffuse erythema and facial flushing but no residual features of anaphylaxis.

- 5.5 Whilst medical documentation provided by Client A confirms that she has subsequently consulted with a neurologist and cardiologist, any link of the hyaluronidase to her ongoing symptoms is inconclusive.

Responses from Ms Fan and the Practice

- 5.6 Ms Fan and the manager of the Practice provided a joint response to the Commission dated 12 October 2020 as follows:

5.6.1 Client A attended the practice on 27 October 2019 and requested that Ms Fan dissolve the hyaluronic acid in her face. Ms Fan stated that she could not do an injection without a registered nurse and that one would not be available for a period of a week.

5.6.2 Client A insisted that Ms Fan try and dissolve the hyaluronic acid that day as she thought her face looked large and she said that she had consulted the beautician in China and was told that the hyaluronidase could dissolve the hyaluronic acid.

5.6.3 Ms Fan told Client A that a nurse had left a bottle of hyaluronidase and that the only way she could import it into her skin was by using a home-use microneedle-roller and Client A agreed.

5.6.4 Prior to the treatment, Ms Fan asked Client A if she was allergic to any medicine. Client A informed Ms Fan that her skin was sensitive but she had no history of allergy to any medicine or skin products.

5.6.5 Client A asked Ms Fan if she would experience any pain during the process. Ms Fan told Client A that the microneedle-roller was only 0.03mm and she would not have any pain sensation. Ms Fan then imported 0.3-0.5ml of hyaluronidase using a home-use microneedle on her face.

5.6.6 After about five minutes Client A said her face felt a bit warm and then her face started to turn red. Client A then complained of dizziness and shortness of breath and an ambulance was called immediately.

- 5.7 On 1 March 2021, the Commission received an email from Ms Fan's email address, however the email was signed off by the Practice. It is noted therein:

5.7.1 Ms Fan never used any hyaluronidase prior to Client A. Ms Fan had used the microneedle-roller previously before applying conventional facial masks.

5.7.2 Ms Fan first disinfected Client A's cheek area then rolled the microneedle-roller over this area. She then tapped a small amount of hyaluronidase (less than 0.5ml) out of the bottle on cheek area. The procedure took less than 5 minutes.

Ms Fan's medical records

- 5.8 The Commission requested Ms Fan and the Practice to provide its documentation relating to the treatment provided to Client A on 27 October 2019. No records were

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provided with the responses received and the Commission can only conclude from this that Ms Fan did not create any records.

6 Submissions

- 6.1 The Commission wrote to Ms Fan on 29 April 2021 proposing to take action under section 41A and 41B of the Act and inviting submissions under section 40 of the Act within 28 days. Ms Fan was provided with a draft copy of the Statement of Decision in this matter.
- 6.2 No submissions were received from Ms Fan in relation to the proposed action within the 28-day statutory timeframe. Accordingly, the Commission determined to proceed with the action proposed.

7 Findings

- 7.1 Based on all the available information, including Ms Fan's admissions, the Commission finds that Ms Fan administered hyaluronidase, a Schedule 4 medication to Client A on 27 October 2019. Whilst the hyaluronidase was not injected into Client A's skin, it was administered using a microneedle-roller. In any event, Ms Fan does not hold the requisite qualifications to administer Schedule 4 medications. Only registered medical practitioners and nurses are authorised to administer cosmetic injectables in NSW.
- 7.2 The Commission notes the serious consequences suffered by Client A as a result of Ms Fan's treatment. Client A was taken to hospital following an allergic reaction to the hyaluronidase.
- 7.3 The Commission finds that Ms Fan has breached the following provisions of the Code of Conduct in her treatment of Client A:
- 6.3.1 Clause 3(1) which provides that, '*A practitioner must provide health services in a safe and ethical manner.*'
 - 6.3.2. Clause 3(2)(b) which provides that '*A health practitioner must not provide healthcare of a type that is outside his or her experience or training.*'
 - 6.3.3 Clause 3(2)(c) which provides that '*A health practitioner must not provide services that he or she is not qualified to provide.*'
 - 6.3.4 Clause 15 which provides that '*A health practitioner must maintain and keep appropriate records.*'
- 7.4. In light of the breaches of the Code of Conduct, the Commission finds that Ms Fan poses a significant risk to public health and safety.

8 Decision

- 8.1. Accordingly, the Commission makes the following Prohibition Order under section 41A(2)(a) of the *Health Care Complaints Act 1993* ('the Act'):

Ms Cayla Fan must not provide, offer and/or advertise any health service involving the administration of any Schedule 4 medication, either in paid employment or voluntarily, to any person until such time she:

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- (a) obtains registration in the nursing profession;
- (b) completes training with the Australasian Academy of Cosmetic Dermal Science; and
- (c) has the supervision of a registered medical practitioner when providing any such treatment.

For the purpose of this order, 'health service' is given the meaning as defined under section 4 of the *Health Care Complaints Act 1993*.

- 8.2. The Commission issues the following public statement, under section 41A(2)(b) of the Act:

The NSW Health Care Complaints Commission conducted an investigation into the conduct of unregistered health practitioner, Ms Mengyan 'Cayla' Fan, who was working as a beautician at a cosmetic clinic in Chatswood. The Commission's investigation found that Ms Fan administered Schedule 4 medication to a client rolling a microneedle-roller over the client's cheek. Ms Fan then tapped a small amount of hyaluronidase (less than 0.5ml) out of the bottle on cheek area. Ms Fan administered the Schedule 4 medication when she was not qualified or authorised to do so. Ms Fan is not currently registered as a nurse and has never held registration as a nurse in Australia.

The client immediately suffered an allergic reaction to the hyaluronidase and began experiencing facial flushing, swelling, rapid heartbeat and vomiting. The client was taken to Royal North Shore Hospital by ambulance. By the time she arrived at the Emergency Department the client was noted to have mild tachycardia, diffuse erythema and facial flushing but no residual features of anaphylaxis. The client was given Adrenaline and Antihistamine which was noted to improve her symptoms immediately.

Schedule 4 medications (including cosmetic injectables) can only be administered by registered medical practitioner and nurses. Any nurse who injects Schedule 4 medications can only do so under the supervision of a medical practitioner and once they have completed requisite training.

The Commission has determined that Ms Fan has breached the Code of Conduct for Unregistered Health Practitioners set out in Schedule 3 of the Public Health Regulation 2012 and poses a significant risk to the health or safety of members of the public.

The Commission therefore makes the following Prohibition Order:

Ms Cayla Fan must not provide, offer and/or advertise any health service involving the administration of any Schedule 4 medication, either in paid employment or voluntarily, to any person until such time she:

- (a) obtains registration in the nursing profession;
- (b) completes training with the Australasian Academy of Cosmetic Dermal Science; and
- (c) has the supervision of a registered medical practitioner when providing any such treatment.

*For the purpose of this order, 'health service' is given the meaning as defined under section 4 of the *Health Care Complaints Act 1993*.*

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- 8.3. Under section 41D of the Act, the Commission will provide a copy of this Statement of Decision to the Australian Health Practitioners Regulation Agency (AHPRA) and each Professional Council in NSW.
- 8.4. The Commission has decided to make this Statement of Decision publicly available, under section 41B(3)(c) of the Act.



Tony Kofkin
Executive Director, Complaints Operations
1 June 2021