Republic of the Philippines
Department of Finance
Securities and Exchange Commission
COMMISSION EN BANC

PHILIPPINE DERMATOLOGICAL SOCIETY, INC.,
Petitioner-Appellant,

-versus-

SEC En Banc Case No. 06-07-102
(SEC Case No. 01-06-106)
In Re: Petition for Revocation of the Registration of Corporate Name
Promulgated: 13 September 2022

PHILIPPINE ACADEMY OF CLINICAL AND COSMETIC DERMATOLOGY, INC.,
Respondent-Appellee.

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DECISION

Before this Commission is the *Memorandum of Appeal* dated 19 June 2007 (the "Appeal") filed by Petitioner-Appellant PHILIPPINE DERMATOLOGICAL SOCIETY, INC. (PDS), assailing the Order dated 24 May 2007 (the "Assailed Order") of the Office of the General Counsel which dismissed its Petition dated 30 January 2006 (the "Petition"), and sustained the use by herein Respondent-Appellee of the corporate name of the PHILIPPINE ACADEMY OF CLINICAL AND COSMETIC DERMATOLOGY, INC. (PACCD) on the basis of a finding that PDS failed to substantiate its allegation that the use of the word "Dermatology" by PACCD is patently deceptive.

THE PARTIES

PDS is a non-stock, non-profit corporation duly organized and existing under Philippine laws. Its principal address is at Suite 1015 South Tower, Cathedral Heights Bldg. Complex, St. Luke's Medical Center, E. Rodriguez Avenue, Quezon City.

PACCD is a non-stock corporation duly organized and existing under Philippine laws, having been issued a Certificate of Incorporation bearing Company Reg. No. CN200323116. Its principal address is at 31-G A. Roces Avenue, Brgy. Paligsahan, Quezon City.

RELEVANT FACTS

On 01 February 2006, PDS filed the *Petition*[1] with the Office of the General Counsel (OGC), praying for the revocation of the corporate name of PACCD, alleging that PACCD's use of the word "Dermatology" is patently deceptive to the public because while most of its members are not graduates of any PDS-accredited dermatology training program, it holds itself out as a group of skin specialists or "dermatologists."

In its Answer/Comment/Objection dated 27 February 2006, PACCD argued that the Petition is dismissible on the ground that, except for the word "Philippine," the words used by both parties are entirely different. PACCD further argued that the other issues raised therein are outside the jurisdiction of the Commission.

In the Assailed Order, the OGC emphasized the policy behind the prohibition on the use of a patently deceptive corporate name, among others, under Section 18 of the Corporation Code,[2] i.e., the avoidance of fraud upon the public who will have the occasion to deal with the entity concerned, the evasion of legal obligations and duties, and the reduction of difficulties of administration and supervision over corporations. In relation to the allegation of PDS that the use by PACCD of the word "Dermatology" is patently deceptive, the OGC ruled that PDS failed to substantiate the same with the required quantum of evidence. Hence, the dismissal of the Petition.

PDS thereafter invoked the exercise by this Commission of its appellate authority and requested that the Assailed Order be reversed and set aside, on the basis of the same argument that the use by PACCD of the word "Dermatology" is patently deceptive. PDS alleged that PACCD is falsely claiming that its members are qualified dermatologists, even if members of PACCD are not eligible to practice as consultants and residency staff training officers in tertiary government and private hospitals. This is because the accreditation of PACCD members was not obtained from PDS, which is allegedly the only sub-specialty society recognized by the Philippine College of Physicians (PCP) and the Philippine Medical Association (PMA),[3] pursuant to the "One Specialty-One Society Policy" of the PMA. On these bases, PDS argued that the OGC

[1] Docketed as SEC Case No. 01-00-106.
[2] Batas Pambansa Blg. 68.
[3] PDS maintains that the agency entrusted with the regulation of the practice of dermatology is the Philippine College of Physicians, which is the specialty division recognized by the Philippine Medical Association to accredit a sub-specialty society for dermatology (Par. 27 of the Appeal).

committed reversible error in holding that no evidence was presented to substantiate the Petition.

In its Memorandum, PACCD maintained that "dermatology," being a generic name used in the practice of medicine, cannot be privately appropriated by any entity, to the exclusion of others; and that while a doctor who decides to concentrate on the practice of dermatology may be called a specialist in dermatology, this does not preclude general practitioners from practicing dermatology. Further, PACCD assails and questions the authority of PMA to officially recognize PDS as the only sub-specialty society, arguing that PMA is a private, non-profit, non-stock corporation. Finally, PACCD argued that the determination of the expertise of the members of both parties is not within the competence and jurisdiction of the Commission.

On 23 February 2012, PMA filed its Brief where it confirmed that it only recognizes PDS as the society for dermatologists, which in turn, means that only the members of PDS will be recognized by PMA as specialists in the field of dermatology. PMA also manifested that in its opinion, there should be only one society that deals with dermatology to prevent confusion on the part of the public.

ISSUE

Is the use by the Philippine Academy of Clinical and Cosmetic Dermatology, Inc., of the word "dermatology" as part of its corporate name patently deceptive that warrants a revocation of such corporate name?

RULING

At the outset, this Commission notes of the allegations and arguments advanced by the parties in support of their respective claims. On the part of PDS, it claims that it is the only sub-specialty society recognized by the PCP and the PMA, and alleges that PACCD and its members falsely represented that it conducts training programs consistent with the standards of the medical community, and are qualified dermatologists, respectively.[4] This, according to PDS, is the heart of the dispute because PACCD's representation that it is fully capable of training and certifying specialists in dermatology, when in truth and in fact it is not, constitutes deceit upon the public.[5]

[4] Pars. 7 and 8 of the Appeal.
[5] Par. 24 of the Supplemental Memorandum dated 20 February 2008 filed by PDS.

PACCD on the other hand, maintains that its members are all duly licensed doctors who have passed the board examinations given by the Professional Regulatory Commission, and can practice dermatology as general practitioners.[6] PACCD sees that the purpose of PDS in seeking the revocation of PACCD's corporate name is to enable PDS to monopolize the practice of dermatology in the country which will allegedly deny clients/patients the choice of their doctor(s).[7]

As regards the foregoing issues and arguments relative to the practice of dermatology, as discussed at length by the parties, the Commission holds that it has no jurisdiction to take cognizance of and pass upon the same considering that under Republic Act (RA) Nos. 8981[8] and 2382,[9] it is the Professional Regulatory Commission (PRC) which is vested with jurisdiction to determine who is qualified to engage in the practice of medicine, including dermatology, and to train and certify specialists in dermatology.

On account thereof, the Commission will thus confine itself to the determination of whether the use by PACCD of the word "dermatology" is patently deceptive and should be removed as part of its corporate name, or revoked pursuant to Section 18 of the Corporation Code which states that:

> "Section 18. Corporate name. – **No corporate name may be allowed** by the Securities and Exchange Commission **if the proposed name is** identical or deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law or **is patently deceptive**, confusing or contrary to existing laws. When a change in the corporate name is approved, the Commission shall issue an amended certificate of incorporation under the amended name." (Emphasis supplied)

The Commission is mandated under the afore-quoted provision to protect the public from fraud, actual or potential, caused by, or which may arise in relation to, or as a consequence of the use of corporate names. As correctly pointed out in the Assailed Order, the policy underlying the prohibition on the use of corporate names in the fore-quoted provision is the avoidance of fraud upon the public which would have occasion to deal with the entity concerned, the evasion of legal obligations and duties, and the reduction of difficulties of administration and supervision over corporations.[10]

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[6] See Par. 2 (page 1) of the Memorandum dated 04 July 2006 of PACCD.
[7] Par. 8.3 of the Rejoinder/Comment/Opposition to Appellant's Supplemental Memorandum dated 11 March 2008.
[8] PRC Modernization Act of 2000 (05 December 2000).
[9] The Medical Act of 1959 (20 June 1959).
[10] Lyceum of the Philippines, Inc. vs CA (G.R. No. 101897. 05 March 1993).

Moreover, there is an important distinction between a corporate name and an individual name as regards the manner of their acquisition. A corporation acquires its name by choice and is thus accorded a wide latitude and discretion to create or adopt one that is unique and not patently deceptive, among others, while an individual's name is thrust upon him.[11] It is in this context that the law deemed it necessary and imperative to regulate the use of corporate names, and conferred upon the Commission ample power and authority to deregister and/or revoke any name that is found to violate Section 18 of the Corporation Code. In the case of *Industrial Refractories Corporation of the Philippines vs. Court of Appeals,*[12] the Supreme Court affirmed the foregoing mandate in relation to the de-registration of a name found to be violative of Section 18 for being confusingly similar to a registered name, to wit:

> "**It is the SEC's duty to prevent confusion in the use of corporate names not only for the protection of the corporations involved but more so for the protection of the public**, and **it has authority to de-register at all times and under all circumstances corporate names which in its estimation are likely to generate confusion.** Clearly therefore, the present case falls within the ambit of the SEC's regulatory powers." (Emphasis supplied)

It is an established jurisprudential rule that for a corporate name to fall within the express prohibition of Section 18 of the Corporation Code, two (2) requisites must be proven to exist, to wit:

> "To come within its scope, two requisites must be proven, namely:
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> (1) that the **complainant corporation acquired a prior right** over the use of such corporate name; and
> (2) **the proposed name is** either:
>
> (a) identical; or
> (b) deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law; or
> (c) **patently deceptive**, confusing or contrary to existing law."[13] (Emphasis supplied)

In relation to the first requisite, i.e., the acquisition of a prior right over the use of a corporate name, the Supreme Court has consistently applied the priority of adoption rule which reckons the rightful entitlement of a corporation to the use of a corporate name from the date of registration, the same being the date when the said corporation begins using the such approved corporate name. In *Indian Chamber of Commerce*

[11] Standard Oil Co. of N.M. vs Standard Oil Co. of Cal., 13 U.S.P.Q. 76.
[12] G.R. No. 122174, 03 October 2002.
[13] Philips Export B.V. vs Court of Appeals (G.R. No. 96161, 21 February 1992).

Phils., Inc. vs. Filipino Indian Chamber of Commerce in the Philippines, Inc.,[14] the Court ruled as follows:

> "In Industrial Refractories Corporation of the Philippines v. Court of Appeals, **the Court applied the priority of adoption rule to determine prior right, taking into consideration the dates when the parties used their respective corporate names**. It ruled that 'Refractories Corporation of the Philippines' (RCP), as opposed to 'Industrial Refractories Corporation of the Philippines' (IRCP), has acquired the right to use the word 'Refractories' as part of its corporate name, being its prior registrant on October 13, 1976. **The Court noted that IRCP only started using its corporate name when it amended its Articles of Incorporation** on August 23, 1985." (Emphasis supplied)

In the instant case, the records show that PDS was incorporated on 21 February 1974, while PACCD was incorporated on 13 October 2003, or twenty-nine (29) years after the incorporation of PDS. Clearly, PDS has acquired prior rights over its corporate name.

As regards the second requisite, the issue presented in the instant case is apparently novel in the sense that the concept of a "patently deceptive" corporate name is not defined under existing laws, rules or regulations, and even in jurisprudence. Moreover, it is notable that the prohibition on the use of the patently deceptive corporate name was not adopted in Section 17 of the Revised Corporation Code,[15] which now limits the prohibition to names that are not distinguishable, or those already protected by law, or those used contrary to existing laws, rules or regulations. However, for purposes of the instant case, Section 18 of the old Corporation Code will be applied as this was the governing law when the Petition was filed with the Commission.

Under Section 18 of the Corporation Code, among the names expressly prohibited are those that are deceptively similar to that of any existing corporation or to any other name already protected by law, and those that are patently deceptive. These are two (2) kinds of corporate names which the law considers and treats differently. In the instant case, this distinction should be made and clarified because PDS is not claiming that PACCD's corporate name is deceptively similar (or is identical, or confusingly similar) to its name, instead PDS is charging PACCD of allegedly using a "patently deceptive" corporate name relative and consequent to its use of the word "dermatology" as a part thereof.

The Supreme Court had, on several occasions, ruled that the use of an identical, or <u>deceptively</u> or confusingly similar name should be struck

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[14] G.R. No. 184008, 03 August 2016.
[15] RA No. 11232.

down as a practice that is proscribed under the Corporation Code because even under the test of "*reasonable care and observation as the public generally are capable of using and may be expected to exercise,*" confusion will usually arise.[16] Thus, Universal Mills Corporation, Indian Chamber of Commerce Philippines, Inc., and Ang Mga Kaanib sa Iglesia ng Dios kay Kristo Hesus, H.S.K. sa Bansang Pilipinas, Inc. were all directed to change their corporate names for being identical, or deceptively or confusingly similar to Universal Textile Mills, Inc.,[17] Filipino Indian Chamber of Commerce in the Philippines, Inc.,[18] and Iglesia ng Dios kay Cristo Jesus, Haligi at Suhay ng Katotohanan,[19] respectively. In *GSIS Family Bank vs BPI Family Bank,*[20] the Supreme Court held that the evil sought to be avoided in prohibiting the use of a name that is identical, or deceptively or confusingly similar to one that is already registered or protected by law is the confusion caused on the public, thus:

> "On the second point (b), <u>there is a deceptive and confusing similarity between petitioner's proposed name and respondent's corporate name</u>, as found by the SEC. In determining the existence of confusing similarity in corporate names, <u>the test is whether the similarity is such as to mislead a person using ordinary care and discrimination. And even without such proof of actual confusion between the two corporate names, it suffices that confusion is probable or likely to occur</u>.
>
> Petitioner's corporate name is "GSIS Family Bank—A Thrift Bank" and respondent's corporate name is "BPI Family Bank." The only words that distinguish the two are "BPI," "GSIS," and "Thrift." The first two words are merely the acronyms of the proper names by which the two corporations identify themselves; and the third word simply describes the classification of the bank. The overriding consideration in determining whether a person, using ordinary care and discrimination, might be misled is the circumstance that both petitioner and respondent are engaged in the same business of banking. "The likelihood of confusion is accentuated in cases where the goods or business of one corporation are the same or substantially the same to that of another corporation." (Underscoring supplied)

In the instant case the Commission is not called upon to apply the foregoing doctrinal pronouncements because PDS is not alleging that PACCD's corporate name is identical, or deceptively or confusingly similar to its corporate name. The Commission is rather presented with the issue of ruling what a "patently deceptive" corporate name is, and if PACCD's corporate name is such. The absence of jurisprudence on the matter necessitates the exercise by the Commission of its authority to

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[16] Universal Mills Corporation vs Universal Textile Mills, Inc. (G.R. No. L-28351, 28 July 1977).
[17] *Ibid.*
[18] Indian Chamber of Commerce Philippines, Inc. vs Filipino Indian Chamber of Commerce in the Philippines, Inc. (G.R. No. 184008, 03 August 2016).
[19] Ang Mga Kaanib sa Iglesia ng Dios kay Kristo Hesus, H.S.K. sa Bansang Pilipinas, Inc. vs Iglesia ng Dios kay Cristo Jesus, Haligi at Suhay ng Katotohanan (G.R. No. 137592, 12 December 2001).
[20] G.R. No. 175278, 23 September 2015.

interpret and implement (at the first instance) the provision of the Corporation Code (now the Revised Corporation Code).

Guided by the concept of identical, deceptively or confusingly similar corporate names under established jurisprudence, this Commission holds that a "patently deceptive" corporate name is one that is used for the purpose of and/or will necessarily result in deceiving or defrauding the public. The intent to deceive, and the prejudice upon the public who is defrauded as a consequence of the use of such name is what distinguishes "patently deceptive" corporate names from those that are identical, or deceptively or confusingly similar corporate names, all of which are proscribed under Section 18 of the Corporation Code.

Moreover, the evaluation and determination of whether a name is identical, or deceptively or confusingly similar is always made in relation to and/or in comparison with another name which is already registered or protected by law. By using of the word "similar" to qualify the words that preceded it, i.e., "deceptively" and "confusingly," the law intended to prohibit the use by two (2) or more corporations of the same or identical names so as not to confuse the public. On the other hand, the evaluation and determination of whether a name is patently deceptive may be carried out independently, regardless of whether there is a competing name, by considering that if given the attendant circumstances, its use will *per se* deceive the public.

Thus, while an identical, or deceptively or confusingly similar corporate name may be used without the intent on the part of the concerned entity to defraud, as, for instance, when incorporators come up with a name based on their initials, believing in good faith that the name is novel, but because it nonetheless results in the public being misled, potentially or otherwise, the same has to be changed. A patently deceptive corporate name is prohibited because it is one that is always used with the intent to defraud or deceive, and results, in all probability, in the public being prejudiced or damaged. Stated otherwise, the use or adoption of a patently deceptive name is willful and intentional, attended by bad faith, and with an intent on the part of the incorporators to deceive or defraud.

In the instant case, PDS maintains that the word "dermatology" in the corporate name of PACCD should either be removed or changed because the same is patently deceptive in the light of the alleged false representation that it is conducting training programs consistent with the standards of the medical community, and that its members are qualified dermatologists.

After a careful consideration of the arguments and the evidence presented by the parties, the Commission finds that the use by PACCD of the word "dermatology" as part of its corporate name does not make such corporate name patently deceptive under Section 18 of the Corporation Code.

In English, one of our official languages,[21] the word "dermatology" is commonly used to signify a branch of medicine dealing with skin, and its diseases.[22] Dermatology is a descriptive word that our public has been accustomed to associate or relate to the study, research, diagnosis, treatment, and management of any health conditions that may affect the skin, hair, nails, and membranes performed by a licensed doctor, or health professional under the supervision of a licensed doctor.

Our government regulates the practice of certain professions in order to promote, protect, and safeguard public health, safety, and welfare. Thus, there are statutes that specifically restrict the use of words related to regulate professions, such as "engineer" or "architect", as part of a firm's name.[23] The policy of these laws in regulating the use of firm names is to ensure and guarantee to the public that only licensed individuals (or group thereof) are engaged in the practice of the profession.

Pursuant to, and consistent with such statutes, the Commission has adopted the following rule in its *Guidelines and Procedures on the use of Corporate and Partnership Names*,[24] thus:

> "The practice of a profession regulated by a special law which among others provides for the permissible use of the profession's name in a firm, partnership or association shall govern the use of the name, e.g., "Engineer" or "Engineering" (R.A. 1582), "Architect" (R.A. 9266), or "Geodetic Engineer" (R.A. 8560).
>
> Notwithstanding the limitations mentioned above, any association registered by entities engaged in the listed activities may use the profession's name, e.g., Association of Engineers of the Philippines, Inc."

In relation to the instant case, this Commission takes administrative notice of RA No. 2382, otherwise known as "The Medical Act of 1959," which regulates the practice of medicine in the Philippines. Unlike statutes regulating other professions, the Medical Act of 1959 is silent on the use of the words associated with the medical profession as part of a firm's name.

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[21] 1987 Constitution, Article XIV, Section 7.
[22] "dermatology." Dictionary.com 2022. https://www.dictionary.com/browse/dermatology.
[23] RA No. 1582 and RA No. 9266.
[24] SEC Memorandum Circular No. 5, series of 2008.

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In the absence of any provision in the Medical Act of 1959 which expressly prohibits licensed physicians/doctors from using words associated with the medical profession, the performance by the Commission of its mandate in regulating the use of corporate or partnership names under Section 18 of the Corporation Code should be limited to ensuring that the use of words as corporate or partnership name, or part thereof, which relates to the practice of the medical profession, are only used by licensed physicians/doctors. In this way, the public is protected from being defrauded by scheming persons who will use a name associated with the medical profession and make it appear that they are licensed to practice medicine when in truth, they are not.

Undoubtedly, the use of a name associated with the practice of medicine or any regulated profession for that matter, by persons who are not licensed to practice such profession renders the name patently deceptive because such practice is not only a lie, it is also illegal. The Commission, however, holds that this is not attendant in the instant case.

To begin with, the Commission finds that the constitutional documents of PACCD and pleadings on record neither show nor suggest, even remotely, that the use by PACCD of the word "dermatology" as part of its corporate name was made for the purpose of engaging in the practice of medicine[25] and/or provision of medical services. In particular, Article SECOND of PACCD's Articles of Incorporation (AOI) clearly provides that the association was established as a non-stock, non-profit entity primarily for the purpose of promoting and advancing the members' knowledge in dermatology through the exchange of ideas and affiliation with relevant organizations, to wit:

"That the purpose or purposes for which such association is incorporated are:

I. Objectives –
    1. To promote the continuing medical education research and information on recent advances in cosmetic/clinical dermatology & dissemination [sic] this knowledge to physicians interested in this field to the ultimate benefit of the people with skin ailments.
    2. To be a venue of qualified Filipino dermatologists to exchange ideas & experiences among members & other outside the country.

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[25] Section 10 of the Medical Act of 1959 provides for the acts constituting practice of medicine: "A person shall be considered as engaged in the practice of medicine (a) who shall, for compensation, fee, salary or reward in any form, paid to him directly or through another, or even without the same, physical examine any person, and diagnose, treat, operate or prescribe any remedy for any human disease, injury, deformity, physical, mental or physical condition or any ailment, real or imaginary, regardless of the nature of the remedy or treatment administered, prescribed or recommended; or (b) who shall, by means of signs, cards, advertisements, written or printed matter, or through the radio, television or any other means of communication, either offer or undertake by any means or method to diagnose, treat, operate or prescribe any remedy for any human disease, injury, deformity, physical, mental or physical condition; or (c) who shall use the title M.D. after his name."

3. To affiliate with medical&/or non-medical organizations both local & international to assist in the promotion of our objectives.
4. To be able to set up training programs in the field of dermatology."

Suffice it to state that under its AOI, PACCD is bereft of any authorized purpose to provide medical services to the public, neither is it intended to engage in any act constituting the practice of medicine as defined under the Medical Act of 1959 simply because the entity was established, and is only authorized, to be a venue for continued learning and career development of its members. PACCD does this by conducting seminars, fora, conventions, and similar programs that are designed to supplement and develop the competencies of their members and other physicians who are "interested" in the field of dermatology.

PDS claims that the foregoing is what renders the use of "dermatology" by PACCD patently deceptive because this allegedly constitutes misrepresentation and deceit upon the public who is led to the belief that its members have the training and qualifications required by the medical community to practice dermatology,[26] when they are allegedly not eligible to practice in tertiary government hospitals and universities.[27]

The position and arguments of PDS fail to convince.

Corporations are artificial beings granted legal personalities upon their creation by their incorporators in accordance with law. Unlike natural persons, corporations have no inherent powers as Section 2 of the Corporation Code categorically provides that the powers of a corporation are limited to those "expressly authorized by law or incident to its existence."[28] Third persons dealing with corporations, therefore, need to determine their authority and competence as expressly defined by law and its articles of incorporation, they cannot assume that these corporations have powers. Consequently, and necessarily, corporations may exercise and perform only the powers and authority expressly granted by laws and its articles of incorporation, and any act made outside of those parameters can be struck down for being *ultra vires*.[29]

The conduct of seminars, fora, conventions, and similar programs that are designed to supplement and develop the competencies of their members and other physicians, who may or may not be members, who

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[26] Par. 37 of the Appeal.
[27] Pars. 40 and 41 of the Appeal.
[28] "**Section 2.** *Corporation defined.* – A corporation is an artificial being created by operation of law, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence."
[29] See University of Mindanao, Inc. vs Bangko Sentral ng Pilipinas (G.R. No. 194964-65, 11 January 2016).

are interested in the field of dermatology is consistent with, and furthers the objectives of PACCD as spelled out in its purpose clause. These acts are expressly authorized, and are among the powers expressly granted to PACCD. The performance of the same cannot, therefore, constitute misrepresentation, or result in the perpetration of deceit upon the public.

Moreover, the allegation that PACCD's use of "dermatology" as part of its corporate name will defraud the public for being patently deceptive is more imagined than real. Absent proof of actual deception upon non-members of the profession, the Commission underscores that the constitutional documents of PACCD indicate that it will only be dealing with its members and other licensed physicians who are "interested" in the field of dermatology, and not with the general public.

We emphasized earlier that in regulating the use of corporate names that contain words associated with the practice of medicine, the determination of whether the same is patently deceptive should be made in the context of and under the parameters laid down by the Medical Act of 1959. The objective is to ensure that the public is not defrauded by persons who use corporate names suggesting or representing that they are licensed to engage in the practice of medicine and provide medical services, when they are, in truth, not armed with the requisite license.

In the instant case, there is no allegation that PACCD is engaged in the practice of the medical profession. Nonetheless, PDS wants the word "dermatology" removed from the corporate name of PACCD because its members are allegedly using the corporation to deceive the public by representing that they are qualified to practice dermatology.

The Medical Act of 1959 does not contain any provision that prohibits, expressly or impliedly, the use of the word "dermatology" as part of a corporate name of an association established by licensed physicians/medical practitioners. In this regard, we note that in relation to the claim of PACCD that "*its members are all licensed doctors who have passed the board examinations given by the Professional Regulatory Commission,*"[30] where a list of its prominent officers and members were provided, PDS merely averred that the AOI of PACCD does not contain a provision requiring its members to be qualified physicians, thus impliedly suggesting that it has members who are not qualified to practice medicine.[31] This argument, unsupported by evidence showing that PACCD has members that are not licensed to engage in the practice of medicine cannot overcome the evidence presented by PACCD that its members are all licensed physicians. The foregoing is consistent with the

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[30] See 2nd paragraph (page 1) of the Memorandum dated 04 July 2006 filed by PACCD.
[31] Par. 28 of the Supplemental Memorandum dated 20 February 2008 filed by PDS.

rule that he who alleges must prove,[32] and that while in administrative proceedings, the quantum of evidence required is merely substantial evidence,[33] PDS failed to satisfy the same.

Finally, there is nothing in the evidence on record that shows that the public was defrauded or deceived by the use of PACCD of "dermatology" as part of its corporate name; no complaint from the public against PACCD or against any of its members who are privately practicing medicine was filed or submitted with the Commission. Moreover, we find that the rule on the probability or likelihood of confusion[34] is not applicable in the instant case as the issue does not involve identical, or deceptively or confusingly similar corporate names.

WHEREFORE, premises considered, the Appeal is hereby **DENIED** for lack of merit.

SO ORDERED.

Makati City, Philippines.

EMILIO B. AQUINO
Chairperson

JAVEY PAUL D. FRANCISCO
Commissioner

KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner

MCJILL BRYANT T. FERNANDEZ
Commissioner

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[32] "The Court has stressed time and again that allegations must be proven by **sufficient evidence** because mere allegation is definitely not evidence." (Spouses Ramos vs Obispo, G.R. No. 193804, 27 February 2013).

[33] "Substantial evidence, quantum of proof in administrative cases.
Substantial evidence is defined as such amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. It is more than a mere scintilla of evidence. The standard of substantial evidence is satisfied when there is reasonable ground to believe, based on the evidence submitted, that the respondent is responsible for the misconduct complained of. It need not be overwhelming or preponderant, as is required in an ordinary civil case, or evidence beyond reasonable doubt, as is required in criminal cases, but the evidence must be enough for a reasonable mind to support a conclusion." (Miro vs De Erederos. G.R. No. 172532; 172544-45. 20 November 2013).

[34] "On the second point (b), there is a deceptive and confusing similarity between petitioner's proposed name and respondent's corporate name, as found by the SEC. **In determining the existence of confusing similarity in corporate names, the test is whether the similarity is such as to mislead a person using ordinary care and discrimination. And even without such proof of actual confusion between the two corporate names, it suffices that confusion is probable or likely to occur**." (Emphasis supplied) [*GSIS Family Bank - Thrift Bank v. BPI Family Bank*, G.R. No. 175278, 23 September 2015].