

香港醫務委員會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG David Chuen Ho (黃纘河醫生) (Reg. No.: M09922)

Date of hearing: 10 July 2015

Present at the hearing

Council Members/Assessors: Prof. LAU Wan Yee Joseph SBS (Chairman)

Miss CHAU Man Ki Mabel MH

Dr HUNG Se Fong BBS

Dr TUNG Sau Ying Nancy MH

Dr WONG Yee Him John

Dr KWONG Kwok Wai Heston JP

Mr YU Kwok Kuen Harry

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Jaime LAM of Messrs. Mayer Brown JSM

Senior Government Counsel representing the Secretary: Mr Mark CHAN

1. The amended charges against the Defendant, Dr WONG David Chuen Ho, are:

“That in or around 2012, he, being a registered medical practitioner, engaged in impermissible practice promotion in respect of his practice in association with Royal Medical Hair Transplant Centre by sanctioning, acquiescing in, or failing to take adequate steps to prevent the publication of the following promotional statements in the website of www.royalmedical.com.hk:

(a) “Price Match Guarantee!” (“手術費最平保證!”);

(b) “If you can find another hair transplant centre more economical, we are happy to match the price and reimburse you with HK\$500!” (“如你可找到其他植髮中心比我們更便宜，我們樂意跟隨那收費再回饋你 HK\$500!”); and/or

(c) “免費醫生諮詢”.

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

Facts of the case

2. The Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 1 March 1995 to present.
3. Save that he did not sanction or acquiesce in the publication of the promotional statements mentioned in the amended charges (“the Offending Promotional Statements”), the Defendant admitted the truth of the factual particulars of the amended charges against him.
4. The Defendant also admitted that he was at all material times practising in association with Royal Medical Hair Treatment Centre (“the Centre”) to which the website of www.royalmedical.com.hk (“the Website”) belonged.
5. According to the Defendant, he first received on 3 February 2012 from the designer of the Website a proposal to add, amongst others, in the Website the Offending Promotional Statements mentioned above. The Defendant did not approve its publication and required the designer of the Website to have the Offending Promotional Statements removed immediately.
6. According to the Defendant, he subsequently personally reviewed the Website some time in or before the end of February 2012 and confirmed that the Offending Promotional Statements had already been removed.
7. Meanwhile, a letter of complaint was received by the Medical Council via an e-mail dated 15 May 2012 complaining, amongst others, about the Offending Promotional Statements in the Website.
8. Furthermore, according to the Defendant, he only came to realize upon receiving the

PIC Notice herein dated 8 November 2013 that the Offending Promotional Statements had for some unknown reason reappeared in the Website and he had immediately instructed the designer of the Website to remove them all.

Findings of the Council

9. It was clearly stated in section 5.1.3 of the 2009 edition of the Code of Professional Conduct (“the Code”) that “...*Practice promotion of doctors’ 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.*”
10. Section 5.2.1.2 of the Code specifically required that any information provided by a doctor to the public or his patients must not “*aim to solicit or canvass for patients*” or “*be used for commercial promotion of medical...services*” or “*be sensational or unduly persuasive*”.
11. In our view, it made no difference that publication of the Offending Promotional Statements was done in the Website of the Centre. A doctor who had a professional relationship with an organization still ought to exercise due diligence to ensure that the organization would not advertise in such a way that contravened the aforesaid prohibition on inappropriate practice promotion stipulated in the Code. It was particularly true where, as in the present case, the name, professional qualifications and photograph of the doctor would be prominently depicted in the Website.
12. The Defendant fully accepted that he had failed to take adequate steps to prevent the publication of the Offending Promotional Statements. However, pre-approval of the contents of the publication in the Website was not enough. In our view, the Defendant had a continuing obligation to ensure that nothing in the Website would constitute inappropriate practice promotion on his part. This was particularly true because the designer of the Website had previously uploaded various changes onto the Website without seeking his prior approval.
13. But then again, we do not accept on the evidence that the Defendant had acquiesced

in the publication of the Offending Promotional Statements. There is nothing to show the Defendant had actual knowledge of the Offending Promotional Statements after they reappeared in the Website. In our view, the existence of the Offending Promotional Statements in the Website for at least 18 months, though highly suspicious, is insufficient for us to reach the conclusion that the Defendant ought to know about them but had turned a blind eye after they reappeared in the Website.

14. Nevertheless, it is our responsibility to determine whether the Defendant's conduct constituted professional misconduct. In our view, by failing to take adequate steps to prevent the publication of the Offending Promotional Statements in the Website, the Defendant's conduct had clearly fallen below the standard reasonably expected of a registered medical practitioner in Hong Kong. We are satisfied on the evidence that the Defendant has been guilty of misconduct in a professional respect. We therefore find him guilty of all the amended charges.

Sentencing

15. The Defendant had a blemished disciplinary record. He was found guilty after due inquiry on 12 September 2008 of charges involving his appearance in advertisements promoting a cosmetic product and allowing himself to be addressed as a renowned dermatologist when he was not a specialist in dermatology. The Medical Council then ordered his name be removed from the General Register for a period of 2 months and that the removal order be suspended for 12 months.
16. In accordance with our published policy, we shall give him credit for his frank admission and cooperation both at the preliminary investigation stage as well as the hearing before us today.
17. In July 2006, the Medical Council issued a clear warning that all future cases of unauthorized practice promotion would be dealt with by removal from the General Register for a short period with suspension of operation of the removal order, and in serious cases the removal order would take immediate effect. The same warning was repeated in subsequent disciplinary decisions of the Medical Council.

18. Having considered the gravity of the charges for which the Defendant is convicted and what we have heard and read in mitigation, we make a global order in respect of all the amended charges that:-

- (1) the Defendant's name be removed from the General Register for a period of 3 months; and
- (2) the operation of the removal order be suspended for 36 months.

Prof. LAU Wan Yee Joseph, SBS
Chairman, Medical Council