

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr NG Bertram Man-fai (伍文輝醫生) (Reg. No.: M05941)

Date of hearing: 13 August 2025 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr LAU Ho-lim
Dr KWOK Siu-yin Janette
Ms LIU Lai-yun, Amanda
Mr LAI Sze-wai, Alex

Legal Adviser: Mr Stanley NG

Legal Officer representing the Secretary: Mr Andrew TONG,
Senior Government Counsel (Acting)

The Defendant is present and he is not legally represented.

The Charges

1. This is a consolidated inquiry in respect of 5 separate cases against the Defendant.
The charges against the Defendant, Dr NG Bertram Man-fai, are:

First case (MC 11/138)

“That in or around April to July 2011, he, being a registered medical practitioner:

- (a) in respect of the website of www.hairtransplant.hk, being a website of Hong Kong Hair Transplant Pty Limited trading as “Dr. Bertram Medical Hair Transplant Center” (“the Center”), with which he had a

professional and/or financial relationship, sanctioned, acquiesced in, or failed to take adequate steps to prevent:

- (i) the publication of statements(s) which had the effect of claiming superiority and/or uniqueness in respect of the services provided by the Center, namely:
 - (1) “Hong Kong Most Qualified Hair Center”;
 - (2) “The most qualified center in Hong Kong, certified by ISHRS and ABHRS”;
 - (3) “Use the latest Ultra-Refined Follicular Unit Transplant technique”;
 - (4) “Using The Latest UR-FUT Technique For Your Best Result”;
 - (5) “Hong Kong Most Qualified”;
 - (6) “植髮全港 No. 1”; and/or
 - (7) “國際植髮權威”.
- (ii) the publication of promotional statement(s) to the effect that discount would be offered to teachers who were to receive hair transplant in July and August;
- (b) quoted on his name card the qualification of “Dip Pract Derm (U Wales, UK)” (in Chinese “英國威爾斯大學實用皮膚科文憑”), which was not in the format approved by the Medical Council of Hong Kong; and/or
- (c) quoted on his name card the qualification of “Master Pain Med (U N’cle, Australia)” (in Chinese “澳洲紐卡素大學疼痛醫學碩士”), which was not in the format approved by the Medical Council of Hong Kong.”

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

Second case (MC 11/440) – Amended charges

“That in or around 2010 to 2011, he, being a registered medical practitioner:

- (a) sanctioned, acquiesced in or failed to take reasonable steps to prevent the use or appearance of his name and/or title by Dr. Bertram Medical Hair Transplant Center 眉髮醫學移植中心 (“the Center”) operated by Hong Kong Hair Transplant Pty Limited (“the Company”) which

promoted the service of the Center;

- (b) sanctioned, acquiesced in or failed to take reasonable steps to prevent the publication of advertisements on the MTR which constitutes practice promotion for the purpose of solicit or canvass for patients by the Company or the Center with which he had a financial and/or professional relationship;
- (c) sanctioned, acquiesced in or failed to take reasonable steps to prevent the quotation of the following qualifications of him in the website of www.hairtransplant.hk (“the Website”), which were not quotable qualifications approved by the Medical Council of Hong Kong for use at the material times:
 - (i) “國際植髮醫學會培訓證書”;
 - (ii) “美國植髮專業委員會文憑”;
- (d) when his name was not included in the Specialist Register, sanctioned, acquiesced in or failed to take adequate steps to prevent the use of a description of himself in the Website as “A Fully Qualified Hair Transplant Surgeon” which was misleading; and
- (e) sanctioned, acquiesced in, or failed to take adequate steps to prevent the publication of the following information in the Website:
 - (i) his name, title and photograph which promoted the services provided by the Center;
 - (ii) the following promotional statements which had the effect of claiming superiority and/or uniqueness in respect of the equipment used and the services provided by the Center:-
 - (1) “國際公認的植髮權威”;
 - (2) “專業人士所信賴”;
 - (3) “最安全舒適的植髮過程”;
 - (4) “絕非坊間一般植髮中心”;
 - (5) “全港第一間合乎 ABHRS 國際標準的植髮中心”; and
 - (6) “最安全及無微不至的醫療服務”.

(iii) the following promotional and/or misleading statements:

- (1) “接近零的手術後併發症”;
- (2) “零感染”;
- (3) “面部浮腫可完全避免”;
- (4) “我們的無痛承諾”;
- (5) “最安全的 Level I C.S 局部麻醉技術”; and
- (6) “UR-FUT 是現今植髮技術的最高標準”.

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

Third case (MC 14/154)

“That, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:

in or around April 2014,

- (a) the use of the title “Medical Director 醫務總監” on his name card in respect of his practice in association with Dr Bertram Medical Hair Transplant Center operated by Hong Kong Hair Transplant Pty Limited (“the Company”), which was not approved by the Medical Council of Hong Kong;
- (b) the quotation on his name card the qualification of “Fellow of the ISHRS 國際植髮醫學會名譽院士”, which was not a quotable qualification approved by the Medical Council of Hong Kong;

in or around June 2016,

- (c) the publication of the following promotional statements or information in the website of www.hairtransplant.com.hk (“the Website”) which had the effect of claiming superiority and/or uniqueness in respect of his practice in association with the Center and/or which were not service information permitted to be published in a practice website:
 - (i) “香港唯一 ISHRS 金章會員”;
 - (ii) “2013 年獲 ISHRS 國際植髮外科協會會評級為全港及國內資歷最高的植髮中心，授與唯一的 FELLOW 金章會員榮銜”;

- (iii) “美絲採用常規 FUT-X 植髮技術，配合激光髮線修復及毛囊強化技術，能達到持久自然的效果，歡迎比較”;
- (iv) “ISHRS & ABHRS recognized leading Hair Transplant Center in Hong Kong and China”;
- (v) “ISHRS Fellow Since 2013 Only Fellow in China and Hong Kong”;
- (vi) “ABHRS Diplomate Since 2010 First Diplomate in China and Hong Kong”;
- (vii) the promotional statement to the effect that discount would be offered:- “DEMO 大招募 七折優惠 歡迎查詢”;
- (viii) his photograph(s) which promoted his service;
- (ix) the logo of International Society of Hair Restoration Surgery which promoted his practice;
- (x) the logo of “AJA Registrars Anglo Japanese American ISO 9001:2008” which promoted his practice;
- (xi) the logo of “UKAS Management Systems 0059” which promoted his practice; and/or
- (xii) the logo of American Board of Hair Restoration Surgery which promoted his practice; and/or
- (d) the quotation of the qualification of “Fellow Royal Australian College General Practitioner” (in Chinese “澳洲皇家家庭醫學學院榮授院士”) in the Website, which was not in the format approved by the Medical Council of Hong Kong.

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

Fourth Case (MC 14/220)

“That in or around 2012 to 2014, he, being a registered medical practitioner,

(a) sanctioned, acquiesced in or failed to take reasonable steps to prevent the use or appearance of his name and or title by 美絲醫學植髮中心 Dr Bertram Hair Transplant Center (formerly known as 眉髮修復專家 Dr. Bertram Hair Transplant) operated by Hong Kong Hair Transplant Pty Limited (“the Center”) which promoted the service of the Center;

(b) sanctioned, acquiesced in or failed to take reasonable steps to prevent:

(i) the quotation of the following qualifications in the websites of www.hairtransplant.hk and/or www.植髮.hk and/or www.hairdoctor.hk and/or www.drbertram.com and/or www.urfut.hk and/or www.facebook.com (“the Websites”):

- (1) “Fellow Royal Australian College General Practitioner” (in Chinese “澳洲皇家家庭醫學學院榮授院士”), which was not in the format approved by the Medical Council of Hong Kong; and/or
- (2) “FRACS 外科培訓 (1984) 紐西蘭 Dunedin Hospital”, which was not a quotable qualification approved by the Medical Council of Hong Kong;

(ii) the use of a description of himself in the Websites as “Hair Transplant Surgeon” and/or “植髮醫生”, which was not a quotable qualification approved by the Medical Council of Hong Kong and/or was misleading to the public that he was a specialist in hair transplant, when in fact there had been no such specialty included in the Specialist Register;

(iii) the publication of the following statements in the Websites which had the effect of claiming superiority and/or uniqueness in respect of the services provided by the Center over other doctors:

- (1) “國際公認的植髮權威”;
- (2) “國際植髮權威 髮線修復專家”;
- (3) “全港及國內唯一 ISHRS 資歷認可”;
- (4) “香港及國內 ISHRS 國際評級第一位”;
- (5) “TVB 最強人氣美容品牌 2012 Beauty Award”;

- (6) “最強人氣髮線修復專家”;
- (7) “全港最強人氣植髮中心”;
- (8) “全港最大規模植髮團隊”;
- (9) “全港及國內排名第一”;
- (10) “我們絕對是你的最佳選擇”;
- (11) “我們已成功地為社會各階層人士，以最經濟的途徑改善儀容”;
- (12) “專業人士所信賴”;
- (13) “最安全舒適的植髮過程”;
- (14) “全港最大的植髮醫療團隊”;
- (15) “絕非坊間一般植髮中心”;
- (16) “本植髮中心乃全香港及國內，最具國際權威的髮線修復專家”;
- (17) “香港及國內唯一的國際植髮醫學會名譽會員 – ISHRS Fellow”;
- (18) “The Hairline Restore Specialist”;
- (19) “Only ISHRS Certified Fellow in Hong Kong & China”;
- (20) “Hong Kong Most Qualified”;
- (21) “ISHRS Rating No. 1”;
- (22) “Dr Bertram – Amongst the Bests in the World”;
- (23) “Here you’ll find the most qualified as well as the largest team in Hong Kong”; and/or
- (24) “The Largest Hair Transplant Team in Hong Kong”;

- (iv) the publication of the following information in the Websites in respect of his practice in association with the Center which canvassed for the purpose of obtaining patients and/or were not service information permitted to be published in a practice website:
 - (1) his name, title and photographs which promoted his hair transplant services;
 - (2) the promotional statements as mentioned under paragraph (b)(iii) which had the effect of claiming superiority and/or uniqueness in respect of the equipment used and the services provided by the Center;
 - (3) the promotional statement(s) to the effect that discount would be offered to selected demo cases in relation to the hair transplant services provided by the Center, including:-

- (I) “Special Discount: DEMO case 70% off”;
- (II) “Since 2009 we have offered discount to recruit Demo Cases”;
- (III) “This year 2013 we are offering a 30% discount to selected cases”;
- (IV) “特別優惠 – DEMO Case 可享七折優惠”;
- (V) “本中心自 2009 年起，以手術優惠折扣，招募合適的客人作 Demo Cases”;
- (VI) “2013 年 Demo Cases 可享七折優惠”;
- (4) the promotional statement(s) to the effect that discount would be offered to teachers, doctors and/or dentists in relation to the hair transplant services provided by the Center, including: -
 - (I) “醫生和牙醫可享七五折優惠”;
 - (II) “願意分享照片者可享七折優惠”;
- (5) the promotional statement to the effect that a free consultation would be offered by the Center as contained in a leaflet that could be downloaded in the Websites;
- (6) the logo of American Board of Hair Restoration Surgery which promoted his hair transplant services; and/or
- (7) the logo of International Society of Hair Restoration Surgery which promoted his hair transplant services;
- (v) the promotion of the treatment of “LaserCap” in the website of www.lasercap.hk which associated the Center as the only authorised LaserCap Distributor and/or “Authorized Physicians” in Hong Kong which canvassed for the purpose of obtaining patients;
- (vi) the quotation of the following appointments in the Websites, which were not quotations allowed by the Medical Council of Hong Kong:
 - (1) “Diplomate of American Board of Hair Restoration Surgery”;
 - (2) “Elected Director of ABHRS”;
 - (3) “Member of International Society of Hair Restoration Surgery”;
 - (4) “ISHRS Certified Fellow”;
 - (5) “Director, American Board of Hair Restoration Surgery”;

- (6) “Co-Chairman, ISHRS Advanced Course”;
- (7) “Examiner, American Board of Hair Restoration Surgery”;
- (8) “Co-Chairman, ISHRS Live Patient Viewing”;
- (9) “Co-Editor, ISHRS FORUM Bimonthly Medical Journal”;
- (10) “Justice of Peace (1990-2007) State of New South Wales, Australia”; and/or
- (11) “Honorary President (1990-1997) Sydney Elderly Welfare Association, Australia”;

(vii) the publication of his service information in more than one website.

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

Fifth case (MC 21/424)

“That in or about October 2021, he, being a registered medical practitioner, in respect of his practice in association with Dr. Bertram Hair Transplant (“the Center”), sanctioned, acquiesced in or failed to take adequate steps to prevent:

- (a) the use of the title of “植髮醫生” on the website of <https://88db.com.hk/Health-Medical/Other-Therapies/ad-5239973/> (“the Website”), which was not a quotable qualification approved by the Medical Council of Hong Kong and/or was misleading to the public that he was a specialist in hair transplant, when in fact there had been no such specialty included in the Specialist Register; and/or
- (b) the publication of the following statement(s) on the Website about himself:
 - (i) 伍文輝醫生於澳洲、新西蘭及香港，接受外科訓練，執業30年，曾任仁安醫院分科診所總監，2006年起轉從事植髮，率先將歐洲微創技術 FUE 引入香港。;
 - (ii) 2008 年獲 ISHRS 指派接受一年培訓，由國際植髮權威 Dr Damkerng 親自指導，成功考取 ISHRS Fellow 及 ABHRS Diploma 專業資格，現為 ABHRS 專業試主考官。; and/or

(iii) 伍醫生致力改良 UR-FUT 及 FUE 技術，以能適合東方人的面部輪廓，以及毛囊特質，親自處理的植髮手術有千餘宗。

which were promotional and/or claimed superiority over other doctors;

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

Preliminary Issues

2. At the beginning of the inquiry, the Defendant challenged the admissibility of a number of pages in the Secretary’s bundles in the Third Case and the Fourth Case. We ruled in the said pages as provisional exhibits.
3. Having heard the Secretary’s case, we find that those challenged pages are relevant to the issues of the charges under the five cases. We therefore find that those provisional exhibits should be admissible as the Secretary’s exhibits.

Facts of the cases

4. The name of the Defendant has been included in the General Register from 6 December 1985 to the present. His name has never been included in the Specialist Register.
5. On 6 July 2006, approval was given by the Medical Council to the Defendant to have his qualification quoted on signboards, visiting cards and letterheads, etc. for the purpose of professional practice in Hong Kong in the following form:-

“ Full Title: Master of Pain Medicine, University of Newcastle
Abbreviation: M Pain Med (U, Ncle)
Chinese Title: 紐卡素大學疼痛醫學碩士 ”

6. Hong Kong Hair Transplant Pty Limited (香港專業植髮有限公司) (“the Company”) is a company incorporated in Hong Kong on 23 July 2007 and the address of registered office and place of business was “Flat B, 2/F, Block 3, Site 7, Whampoa Garden, Hunghom, Kowloon, HK”. Description and nature of business was “hair restoration consultancy”.

7. According to the Annual Returns of the Company dated 24 July 2008, 10 August 2009, 4 August 2010 and 9 August 2021:
- (i) As of 23 July 2008, the Defendant and “*Wong Yeuck Kiu (黃若喬)*” (“Madam Wong”) were the only directors and shareholders of the Company. On 4 August 2009, the Defendant transferred his share to Madam Wong and was no longer a shareholder or director of the Company. Since then, Madam Wong became the sole shareholder and director of the Company.
 - (ii) In these Annual Returns of 2008, 2009 and 2010, both the Defendant and Madam Wong reported the same address, which was also the address of the registered office of the Company.
 - (iii) In these Annual Returns of 2009 and 2010, the business name of the Company is “Dr. Bertram Medical Hair Transplant Center” (“*眉髮醫學移植中心*”) (“the Center”). According to the Facebook page of the Center dated 2 February 2012, the Chinese name of the Center changed from “*眉髮醫學移植中心*” to “*美絲醫學植髮中心*”.
 - (iv) The reported address of Madam Wong changed to “*Flat C, 2/F, Fook Cheung Mansion, 10 Fa Po Street, Yau Yat Chuen, Kowloon, Hong Kong*” on 23 July 2011, which was also the address given by Dr. Ng in his statement on 18 September 2013.
 - (v) As of 23 July 2009, the address of the registered office of the Company changed to “*3/F., Ultra-Grace Commercial Building, 5 Jordan Road, Kowloon*”.
 - (vi) As of 23 July 2021, the business name of the Company was reported as “*Dr. Bertram Hair Transplant (美絲醫學植髮中心)*”.
8. Briefly stated, all the five cases originated from complaints respectively lodged with the Medical Council against the Defendant for impermissible practice promotion and misquoting of various qualifications.

Burden and Standard of Proof

9. We bear in mind that the burden of proof is always on the Secretary and the Defendant does not have to prove his innocence. We also bear in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.
10. There is no doubt that the allegations against the Defendant here are serious. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine each of the disciplinary charges against him separately and carefully.

Findings of the Inquiry Panel

11. During no case submission, the Defendant told us that he admitted to all the facts as alleged against him in all the charges under all the five cases. The Defendant however categorically denied that the facts alleged in all the charges under all the five cases amount to misconduct in a professional respect.

Relevant Sections of the Code of Professional Conduct

12. The charges under the five cases spread over various years. The applicable version of the Code of Professional Conduct for the First Case (MC 11/138), the Second Case (MC 11/440), charges (a) and (b) for the Third Case (MC 14/154), and the Fourth Case (MC 14/220) is the version revised in January 2009 ("2009 Code"). The applicable version for charges (c) and (d) for the Third Case (MC 14/154) and for the Fifth Case (MC 21/424) is the version revised in January 2016 ("2016 Code").
13. Sections 5.1, 5.2 and 18.2 of the 2009 and 2016 Codes are in substance the same. These sections concern professional communication, information dissemination and relationship with other organizations. To avoid repetition, we only set out below the relevant texts from the 2009 Code:

- “5.1.2 *A key aspect of good communication in professional practice is to provide appropriate information to users of a doctor’s service and to enable those who need such information to have ready access to it. Patients need such information in order to make an informed choice of doctors and to make the best use of the services the doctor offers...*
- 5.1.3 *Persons seeking medical service for themselves or their families can nevertheless be particularly vulnerable to persuasive influence, and patients are entitled to protection from misleading advertisements. 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.*
- ...
- 5.2.1 *A doctor providing information to the public or his patients must comply with the principles set out below.*
- ...
- 5.2.1.2 *Such information must not:-*
- (a) be exaggerated or misleading,*
 - (b) be comparative with or claim superiority over other doctors,*
 - (c) claim uniqueness without proper justification for such claim,*
 - (d) aim to solicit or canvass for patients,*
 - (e) be used for commercial promotion of medical and health related products and services ...*
 - (f) be sensational or unduly persuasive,*
 - (g) arouse unjustified public concern or distress,*
 - (h) generate unrealistic expectations,*
 - (i) disparage other doctors ...*
- ...

5.2.2.1 *Practice promotion means publicity for promoting the professional services of a doctor, his practice or his group ... Practice promotion in this context will be interpreted by the Medical Council in its broadest sense, and includes any means by which a doctor or his practice is publicized, in Hong Kong or elsewhere, by himself or anybody acting on his behalf or with his forbearance (including the failure to take adequate steps to prevent such publicity in circumstances which would call for caution), which objectively speaking constitutes promotion of his professional services, irrespective of whether he actually benefits from such publicity.*

5.2.2.2 *Practice promotion by individual doctors, or by anybody acting on their behalf or with their forbearance, to people who are not their patients is not permitted except to the extent allowed under section 5.2.3.*

...

18.2 *A doctor who has any kind of financial or professional relationship with, uses the facilities of, or accepts patients referred by, such an organization, must exercise due diligence (but not merely nominal efforts) to ensure that the organization does not advertise in contravention of the principles and rules applicable to individual doctors. Due diligence shall include acquainting himself with the nature and content of the organization's advertising, and discontinuation of the relationship with an organization which is found to be advertising in contravention of the principles and rules."*

First Case (MC 11/138)

14. For the First Case (MC 11/138), the Secretary received a letter of complaint dated 29 April 2011, complaining against the Defendant about, *inter alia*, statements published on the website www.hairtransplant.hk (“Website”). Enclosures to the complaint letter contained printouts of the Website and copy of name cards with Defendant’s name and qualifications. The Secretary had also extracted printouts from the Website on 15 July 2011.
15. Printouts of the Website dated 20 April 2011 and 15 July 2011 showed that the Website contained the following statements:
 - (1) “*Hong Kong Most Qualified Hair Center*”;
 - (2) “*The most qualified center in Hong Kong, certified by ISHRS and ABHRS*”;
 - (3) “*Use the latest Ultra-Refined Follicular Unit Transplant technique*”;
 - (4) “*Using The Latest UR-FUT Technique For Your Best Result*”;
 - (5) “Hong Kong Most Qualified”;
 - (6) “植髮全港 No. 1”; and
 - (7) “國際植髮權威”

(Accordingly “Statements (1) to (7) under the First Case”)
16. The name “*Dr. Bertram Medical Hair Transplant*” was shown on these printouts of the Website. The name “Bertram” is the first name of the Defendant.
17. In its English version of the Website printouts dated 20 April 2011, under the heading “*Meet Our Doctor*”, it referred to “*Dr. Bertram Ng MBBS*”, and stated that he “*devoted to hair transplant since 2006*” and had “*special interest in hairline & eyebrow restore*”. His photo and screenshots of his interviews can be seen.
18. In its Chinese version of the Website printouts dated 19 April 2011, it stated the Defendant’s Chinese name (i.e. “伍文輝醫生 MBBS”) and experience under “本中心植髮醫生資歷”. The Defendant’s photo and screenshots of his interview were also shown.
19. In the Website printouts dated 15 July 2011, it claimed that the Center offered the most professional hair-transplanting service (“為你提供最專業的植髮服務”). It also claimed that the Defendant with his efforts had in some four years

greatly enhanced Hong Kong's international status (“我們的伍醫生，經過四年多的努力，已將香港的國際地位大大提高...”) and cited various achievements and experience of the Defendant.

20. It is obvious that the various references in the Website printouts to a hair transplant specialist in the Center were all references to the Defendant.
21. Applying an objective standard, these Website printouts were practice promotional, promoting the Defendant's experience, skills and/or practice and/or the hair-transplanting service of the Defendant and the Center. The contents of the Website when reading as a whole could give the impression to readers that (i) the Defendant was most qualified in hair transplant in Hong Kong and was superior than other doctors in the area of hair transplant, and (ii) the Defendant and the Center offered the most professional, high-quality and/or unique service of hair transplant in Hong Kong.
22. In our view, Statements (1) to (7) under the First Case clearly had the effect of claiming superiority and uniqueness in respect of the services provided by the Defendant and/or the Center.
23. We are satisfied that in or around April to July 2011, the Defendant had sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of offending statements (i.e. Statements (1) to (7) under First Case) in the Website. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (a)(i).
24. In *Dr Leung Ka Lau v The Medical Council of Hong Kong* [2025] 1 HKLRD 219, the Court of Appeal held that there is a clear intention of the Code that offering discounts to the public is prohibited, as follows:

“18. *The Code, of course, does not expressly mention that the offering of discounts to the public is prohibited, but reading the Code as a whole, this must be the clear intention of the Code. First, the fact that [5.2.3] and Appendix C and Appendix D allow doctors to display consultation fee is subject to the requirement that the fees should reflect the doctor's normal charge. This is fundamentally different from the idea of offering discount fees to the public. Second, the offering of discount price is inconsistent with the three overarching principles identified earlier. One may ask what is the benefit of*

*offering a discounted price instead of simply stating the price of the treatment which by itself is a permissible mode of practice promotion? In my view, when viewed with these three overarching principles, there is no significant benefit for the public to know that the fee they pay is discounted rather than the normal fee. Can a member of the public really evaluate whether a discount is more apparent than real? On the contrary, one can see the downside of it. Medical care will be regarded as a mere commercial activity by the proliferation of advertisements soliciting or canvassing for patients. There is the temptation to offer discounts purely to attract patients which may erode the provision of quality services and the temptation to 'cut corners' and provide less than the quality required to meet the pressure of discounted fees. There is also the possibility that the offer of discounts may persuade the public to undergo medical services which may not be appropriate for them: see *Law Society of Upper Canada v Barnett* [1997] LSDD No 94. The inevitable conclusion is that offering discounts is contrary to the three overarching principles and this form of advertisement is aimed to solicit and canvass for patients and is used for commercial promotion of medical service. Hence it is a prohibited form of advertising..." [Emphasis added]*

25. The Website printout dated 15 July 2011 contained the following statements to the effect that discount would be offered to teachers who were to receive hair transplant in July and August:

“致各教育界人士

為人師表必須受學生敬重，形象非常重要，很多患有雄性禿的教師，為避免給學生冠上不雅的稱號，已開始正視脫髮的問題，所以過去兩年七、八月份的求診者，大部份都是教師。

溫馨提示- 教師們都希望在暑假進行植髮，閣下若有興趣進一步了解植髮，請提前向本中心查詢，以便在額滿前預留七、八月份的期檔。

凡於七、八月份植髮的教師，可享特別優惠，請即致電 3421 1138 查詢。" [Emphasis added]

26. Applying the case of *Dr Leung Ka Lau, supra*, it was the clear intention of the 2009 Code that offering discount was prohibited. By publishing statements which offered discount to teachers, the Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (a)(ii).

27. The name cards of the Defendant contained, *inter alia*, the following quotation of his qualification:

(i) Dip Pract Derm (U Wales, UK)
(in Chinese “英國威爾斯大學實用皮膚科文憑”).

(ii) Master Pain Med (U N’cle, Australia)
(in Chinese “澳洲紐卡素大學疼痛醫學碩士”).
[emphasis added]

28. Section 5.2.3.2 of the 2009 Code provides that stationery (which includes visiting cards) may only carry, *inter alia*, “[q]uotable qualifications and appointments and other titles approved by the Council”.

29. According to the “*Advice in regard to qualifications that are acceptable to the Council for use on signboards, letter-heads, visiting cards, etc.*” published by the Council in June 2009 (“Advice”):

“The Council wished to draw the attention of registered medical practitioners to section 5 (Professional communication and information dissemination) of the “Code of Professional Conduct” concerning the content of visiting cards, letter-heads, signboards etc., and to remind practitioners that such notifications should display only the minimum of information.

Only those qualifications acceptable to the Council may be quoted...

Chinese translations should be particularly carefully worded and must follow the attached list of approved translations whatever these are provided...”

30. According to the Annex to the Advice, the requisite qualifications approved by the Council are as follows:

Abbreviation	Chinese Title	Date of approval by the Medical Council
DPD (Wales)	英國威爾斯大學醫學院實用皮膚科文憑	5 October 2005
M Pain Med (U,Ncle)	紐卡素大學疼痛醫學碩士	5 July 2006

31. The quotations of the qualifications in the Defendant's name cards were not in the format approved by the Council.
32. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charges (b) and (c).

Second Case (MC 11/440)

33. For the Second Case (MC 11/440), the Secretary received a letter dated 9 December 2011 with supporting enclosures, raising complaints against the Defendant about, *inter alia*, statements on the Website and advertisements of the Company/Center inside the MTR carriage ("MTR Advertisements"). Enclosures to the complaint letter contained printouts of the Website and copy of photos taken inside MTR carriages.
34. In relation to the MTR Advertisements, two sets of advertisements inside the MTR carriages can be seen from the photos taken in August 2010 and December 2011.
35. The first set of advertisement contained, *inter alia*, the following statements:
- (i) The Chinese name (眉髮醫學移植中心) and English name (Dr. Bertram Hair Transplant), address, hyperlink to the Website and phone number of the Center;
 - (ii) “國際植髮權威 髮線修復專家”
 - (iii) “採用最先進 UR-FUT 超精密毛囊植入技術 一次性永久改善脫髮問題”
 - (iv) “ABHRS 美國植髮協會專業文憑 ISHRS 國際植髮醫學會證書”

(“1st Set of MTR Advertisement Statements”)

36. The second set of advertisement contained, *inter alia*, the following statements:
- (i) The Chinese name (眉髮醫學移植中心) and English name (Dr. Bertram Hair Transplant), address, hyperlink to the Website and phone number of the Center;

- (ii) “國際公認 植髮權威 一次性永久改善脫髮問題”
- (iii) “本中心採用最先進 UR-FUT 超精密毛囊植入技術
全港首位榮獲 ISHRS 植髮專業證書
ABHRS 美國植髮協會專業文憑”

(“2nd Set of MTR Advertisement Statements”)

37. Even though the full name of the Defendant was not stated in the MTR Advertisements, the English name of the Center (“Dr. Bertram Hair Transplant”) obviously referred to the English first name of the Defendant. A fair and objective reader could easily relate that the hair transplant service promoted in these advertisements to be performed by “Dr. Bertram”, were to be performed by the Defendant.
38. In our view, both 1st and 2nd Sets of MTR Statements claimed efficacy, uniqueness and superiority of the services of the Defendant and/or the Center, and constituted impermissible practice promotion, which purpose was to solicit or canvass for patients for the Defendant and/or the Center.
39. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charges (a) and (b).
40. According to the various printouts of the Website, the references to “國際植髮醫學會培訓證書” and “美國植髮專業委員會文憑” being the qualifications of the Defendant repeatedly appeared in these pages:
 - (i) “首頁”;
 - (ii) “醫生資歷 – 專業資格及經驗”
 - (iii) “醫生資歷 – ISHRS Certified Fellow”
 - (iv) “醫生資歷 – ABHRS Diplomate”
41. These qualifications were not quotable qualifications approved by the Medical Council for use at all material times according to the applicable version of the Advice.
42. The Council has a duty to protect members of the public and patients from misleading information. The rationale of the scheme of quotable qualifications has been summarized by Chu JA in *Dr Lau Yuk Kong v Medical Council of Hong Kong* [2011] 5 HKC 218 at §§11-13:

- “11. *The scheme of quotable qualifications was set up by the Council to regulate the quoting of qualifications by doctors in their communication of practice information to the public. The regulation was considered necessary to maintain public confidence in the medical profession and to protect the public from misleading information. A List of Quotable Qualifications (the List) was established to include only those qualifications which the Council was satisfied to be of an acceptable standard and reflected significant improvement to a doctor’s medical competence over and beyond his basic training.*
12. *The Quotable Qualifications scheme applies to communication of information about professional services to the public users of the medical services. As noted above, under Section 5.2.3 of the Code, only qualifications in the List can be quoted by medical doctors in giving information about his professional services to the public...*
13. *The objectives of the List, as endorsed by the Council in October 1999, are:*
- (i) To give recognition to the basic medical education that was required of a person to be registered as a medical practitioner in Hong Kong;*
 - (ii) To give due recognition to further instruction/ training that may significantly enhance the clinical expertise of the medical practitioner in the particular specialty or subspecialty of the quoted qualification;*
 - (iii) To provide such information to the public so that the latter would have knowledge of what significant additional training, relevant to medical practice, that the medical practitioner has undergone and achieved recognition in; and*
 - (iv) To provide other medical practitioners with information of specialty or subsequent subspecialty expertise of any medical practitioner, based on which relevant patient referrals to him or her can be done.” [Emphasis added]*

43. In another Court of Appeal’s decision of *Ng Kin Wai v Dental Council of Hong Kong* [2011] 6 HKC 378, Fok JA (as he then was) emphasized at §45 the importance of quoting only such professional title which a dentist is entitled because “[p]rofessional titles are important and members of the public are likely to rely on the expertise implied by those titles in choosing a dentist and submitting themselves to treatment by that dentist...”
44. Although the appellant in *Ng Kin Wai* case was a dentist, Fok JA’s observation is equally apposite to the quotation of professional titles or positions by registered medical practitioners.
45. By quoting the qualifications of “國際植髮醫學會培訓證書” and “美國植髮專業委員會文憑”, which are not quotable qualifications approved by the Council, the Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charges (c)(i) and (ii).
46. Section 7.2 of the 2009 Code provides that:
- “7.2 *Doctors who are not on the Specialist Register cannot claim to be or hold themselves out as specialists. A non-specialist is not allowed to use any misleading description or title implying specialization in a particular area (irrespective of whether it is a recognized specialty), such as “doctor in dermatology” or “皮膚醫生”.*”
47. In one of the pages of the Website under “*Doctor – ISHRS Certified Fellow*”, the Defendant was described as “*A Fully Qualified Hair Transplant Surgeon*”.
48. In our view, such a description implied that the Defendant was a specialist in hair transplant, which was misleading. The Defendant’s name has never been included in the Specialist Register and he cannot claim to be or hold himself out as specialist.
49. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (d).

50. The name, title and reference to the Defendant were featured prominently in almost all of the pages of the Website. There were also photographs of him posing either alone or together with staff of the Center and other practitioners, and endless descriptions of his expertise in hair transplanting surgery and practice. The featuring of his name, title and photograph constitutes impermissible practice promotion.
51. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (e)(i).
52. The Website contained the following statements:

(i) “國際公認的植髮權威”

“.....我們改寫了歷史，憑著多年來的努力，已躋身於國際級植髮中心的行列.....”

(ii) “專業人士所信賴”

“曾在本中心接受植髮的，有醫生、牙醫、獸醫、物理治療師、醫院的部門主管、律師、會計師、保險從業員、全職運動員、髮型師、舞蹈教師、電視藝員...他們都希望改善禿髮來保持專業的形象，我們都能合乎他們的要求。”

(iii) “最安全舒適的植髮過程”

“.....同時採用最安全的局部麻醉方法 *Level I Conscious Sedation*.....並制定了無痛注射技術，讓你在最舒適的情況下進行植髮.....”

(iv) “絕非坊間一般植髮中心”

“香港家庭醫學會 HKCFP 呼籲市民不要隨便光顧「坊間的植髮中心」，強調在考慮植髮時，應選擇擁有專業資格的植髮醫生。”

“全職的伍醫生進行全部手術”

(v) “全港第一間合乎 ABHRS 國際標準的植髮中心”

“截至 2010 年初亞洲區只有十九位醫生能成功通過 ABHRS 的文憑考試，而我們是香港第一間考獲文憑的植髮中心。”

(vi) “最安全及無微不至的醫療服務”

“我們有一個很值得驕傲的十人團隊，所有團員均經過嚴格挑選及培訓，其中包括一位全職植髮醫生，兩名護士，另有三位管任職西醫診所及化驗所，能輕鬆地處理 3,000 束以上的毛囊單位移植，並確保閣下無論手術前後，都享有最安全及無微不至的醫療服務。

照片中所有工作人員，都在同一時間內協助醫生，完成手術。更聘有專業髮型師，提供植髮後的全面護理。”

(Accordingly “Statements (i) to (vi) under the Second Case”)

53. In our view, Statements (i) to (vi) under the Second Case had the effect of claiming superiority and/or uniqueness in respect of the equipment used and the services provided by the Center.
54. By publishing these Statements (i) to (vi) in the Website, the Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (e)(ii).
55. The Website also contained these statements, emphasizing that the service of the Center has the best quality and standard, to the extent that there is no swelling or pain arising from the surgery:

(a) “接近零的手術後併發症”

“少於 1% 的病人，在植髮後出現傷口發炎或細菌感染；
少於 1% 的病人，在植髮後出現眼腫面腫；
少於 1% 的病人，在植髮後會因傷口作痛而影響日常生活或睡眠；
本中心提供十二個月的免費覆診，由醫生親自處理，次數不限，讓你更安心。”

(b) “零感染”

“感染控制 - 符合美國 OSHA 要求

我們的植髮技術能處理三千束以上的毛囊，對防止傷口感染的要求特別高，本中心對手術室及儀器的清潔，消毒，殺菌，處置醫療廢物，均遵照美國 OSHA 的感染控制指引，成功達到手術後傷口的零感染.....”

(c) “面部浮腫可完全避免”

“面部浮腫

植髮後最常見的問題，是前額和眼睛周圍的水腫。通常發生在手術後第三天，一星期後才會慢慢散去，若依本中心的指示，可完全避免。”

(d) “我們的無痛承諾”

“我們的整個植髮程序，都是在完全無痛的情況下進行。部份前來求診者，以前都有過「慘痛」的植髮經歷，這對我們來說，這是一個挑戰，因為他們在手術前，已非常緊張，期待著痛楚的來臨，但當宣佈完成整個過程的那一刻，他們總是驚訝的問：「吓，完了嗎？為甚麼不痛的？」”

(e) “最安全的 *Level I C.S* 局部麻醉技術”

“.....故祇需使用是最安全的第一級局部麻醉，可能出現併發症的機會極微。”

(f) “*UR-FUT* 是現今植髮技術的最高標準”

“我們的植髮技術...是現今最高水平的技術，效果更是持久自然。”

(Accordingly “Statements (a) to (f) under the Second Case”)

56. In our view, Statements (a) to (d) under the Second Case, but not Statements (e) and (f) under the Second Case which can be a technical elaboration, would mislead readers into thinking that the Defendant's medical skill and expertise were more superior than his peers in the same practice area. An objective reader to these statements would be led to believe that the Defendant and the Center offered hair transplant service with unique quality and safety that no other clinic in Hong Kong was capable of. These statements were misleading and constituted impermissible practice promotion under the 2009 Code.
57. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (e)(iii).

Third Case (MC 14/154)

58. For the Third Case (MC 14/154), the Secretary received a letter of complaint on 9 April 2014 with supporting enclosures, raising complaints against the Defendant about, *inter alia*, statements on the Website and the Defendant's name card. The Secretary has also extracted printouts from the Website on 22 June 2016.
59. A copy of the Defendant's name card was supplied by the complainant. The said name card contained *inter alia* the title "*Medical Director* 醫務總監" and "*Fellow of the ISHRS* 國際植髮醫學會名譽院士". The logo of the Center appeared at the top of the name card. It showed the Defendant's practice in association with the Center operated by the Company.
60. According to the Council's newsletter Issue No. 20 in December 2013, the prevailing policy on quotable appointments (i.e. applicable to the material time of April 2014) was set out as follows:

"Only those appointments falling within the following criteria are quotable in the course of the professional practice:

- It should be a bona-fide, current, full-time and paid appointment offered by an approved public medical institution or private hospital in Hong Kong; and*
- Honorary appointment will not be quotable."*

61. In other words, even if the Defendant did assume the appointment of “*Medical Director* 醫務總監” of the Center at the material time, it was not an appointment offered by an approved public medical institution or private hospital in Hong Kong. Without any prior approval by the Council, this appointment was not quotable on the Defendant’s name card.
62. The Defendant had therefore in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (a).
63. As for the qualification “*Fellow of the ISHRS* 國際植髮醫學會名譽院士”, it was not a quotable qualification approved by the Medical Council for use at the material times according to the applicable version of the Advice.
64. The Defendant had therefore in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (b).
65. The Website printouts for this case contained the following statements (except (iii) below), which in our view are practice promotional and had the effect of claiming superior and/or uniqueness in respect of the Defendant’s practice in association with the Center and/or which were not service information permitted to be published in a practice website:

- (i) “香港唯一 *ISHRS* 金章會員”
- (ii) “2013 年獲 *ISHRS* 國際植髮外科協會會評級為全港及國內資歷最高的植髮中心，授與唯一的 *FELLOW* 金章會員榮銜”
- (iii) “美絲採用常規 *FUT-X* 植髮技術，配合激光髮線修復及毛囊強化技術，能達到持久自然的效果，歡迎比較”
- (iv) “*ISHRS & ABHRS recognized leading Hair Transplant Center in Hong Kong and China*”
- (v) “*ISHRS Fellow Since 2013 Only Fellow in China and Hong Kong*”

(vi) “*ABHRS Diplomate Since 2010 First Diplomate in China and Hong Kong*”

(vii) “*DEMO 大招募 七折優惠 歡迎查詢*”

(Accordingly “Statements (i) to (vii) under the Third Case”)

66. The name, photo of the Defendant and the English name of the Center can be seen at least at some pages of the Website. In our view, it is fairly easy and straightforward for an objective reader to think that the Website was promoting the service of the Defendant and the Center in hair transplant practice.

67. Also, the following logos of various organisations were shown in the Website under the headings “國際品質管理認證” and “ACCREDIATIONS”:

(i) the logo of “International Society of Hair Restoration Surgery”;

(ii) the logo of “AJA Registrars Anglo Japanese American ISO 9001:2008”;

(iii) the logo of “UKAS Management Systems 0059”; and

(iv) the logo of “American Board of Hair Restoration Surgery”

68. In our view, we do not find the presentations of logos in the Website were obviously designed to promote the service of the Defendant and the Center, drawing reference from these organizations with an aim to enhance their image and bolster their credibility.

69. By publishing these statements (i.e. Statements (i), (ii), (iv) to (vii) under the Third Case, but not Statement (iii) under the Third Case), the name, photo of the Defendant, the English name of the Center, the Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (c).

70. The quotation of the qualification of “*Fellow Royal Australian College General Practitioner*” (in Chinese “*澳洲皇家家庭醫學學院榮授院士*”) can be seen in the Website printouts.

71. The format of the requisite qualification approved by the Council according to the applicable version of the Advice is as follows.

Title in Full	Abbreviation	Chinese Title
Fellow, Royal Australian College of General Practitioners	FRACGP	澳洲皇家全科醫學學院院士

72. By using the Chinese quotation “澳洲皇家家庭醫學學院榮授院士”, the Defendant claimed to be a fellow in family medicine specialty in Australia, when in fact there is no such thing as “澳洲皇家家庭醫學學院” and he was merely a fellow in Royal Australian College of General Practitioners.
73. The Defendant had therefore in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (d).

Fourth Case (MC 14/220)

Charge (a), and charge (b)(iii), (iv), (v) and (vii)

74. For the Fourth Case (MC 14/220), the Secretary received the statutory declaration dated 23 December 2014, with screenshots of the Website and various online materials, including www.植髮.hk, www.hairdoctor.hk, www.drbertram.com, www.urfut.hk and/or Facebook page of the Center under the name “Dr. Bertram” (“Facebook Page”), raising complaints against the Defendant about the advertisements on these online materials for the period between 2012 and 2014.
75. According to www.whois.com, a website providing website domain information, the Website and www.hairdoctor.hk (both commenced on 8 May 2008), www.urfut.hk, www.植髮.hk (commenced on 28 January 2010) and www.drbertram.com are all owned by the Company.
76. The Facebook Page referred to www.hairdoctor.hk as “伍醫生個講脫髮 o 既網站”. www.hairdoctor.hk at the bottom of its page provided a hyperlink to the Website.

77. www.urfut.hk also showed a page with information about the Center that was very similar to the Website.
78. www.drbertram.com (commenced on 28 January 2010) is named under the Defendant's Chinese name, claiming to be his "private website" (私人網頁).
79. The Facebook Page was created in around February 2012 with regular postings and photos of the Defendant.
80. The name, title and photographs of the Defendant can be seen in most of the pages of these websites.
81. The following statements were published in these websites:
 - (1) "國際公認的植髮權威"
 - (2) "國際植髮權威 髮線修復專家"
 - (3) "全港及國內唯一 ISHRS 資歷認可"
 - (4) "香港及國內 ISHRS 國際評級第一位"
 - (5) "TVB 最強人氣美容品牌 2012 Beauty Award"
 - (6) "最強人氣髮線修復專家"
 - (7) "全港最強人氣植髮中心"
 - (8) "全港最大規模植髮團隊"
 - (9) "全港及國內排名第一"
 - (10) "我們絕對是你的最佳選擇"
 - (11) "我們已成功地為社會各階層人士，以最經濟的途徑改善儀容"
 - (12) "專業人士所信賴"
 - (13) "最安全舒適的植髮過程"
 - (14) "全港最大的植髮醫療團隊"
 - (15) "絕非坊間一般植髮中心"
 - (16) "本植髮中心乃全香港及國內，最具國際權威的髮線修復專家"
 - (17) "香港及國內唯一的國際植髮醫學會名譽會員 – ISHRS Fellow"
 - (18) "The Hairline Restore Specialist"
 - (19) "Only ISHRS Certified Fellow in Hong Kong & China"
 - (20) "Hong Kong Most Qualified"
 - (21) "ISHRS Rating No. 1"
 - (22) "Dr Bertram – Amongst the Bests in the World"
 - (23) "Here you'll find the most qualified as well as the largest team in Hong Kong"

(24) *“The Largest Hair Transplant Team in Hong Kong”*

(Accordingly “Statements (1) to (24) under the Fourth Case”)

82. These statements (i.e. Statements (1) to (11), (13) to (24) under the Fourth Case, but not Statement (12) under the Fourth Case), spreading across all these websites, gave a coherent presentation of business advertisement and practice promotion of the practice and service of the Defendant and the Center. They gave readers an impression of the Defendant’s superiority over other doctors in the field hair transplant and uniqueness of the equipment and service of the Center over other similar clinics. In the words of the Website, the Defendant was “[a]mongst [t]he [b]ests in the [w]orld”. Objectively speaking, all these statements constituted promotion materials, which aimed at soliciting and/or canvassing patients for the Center and for the service of the Defendant. This was clearly not allowed by the 2009 Code.
83. There were also the following statements to the effect that discount would be offered to selected demo cases in relation to the hair transplant service provided by the Center published in these websites:

- (i) *Special Discount: DEMO case 70% off*
- (ii) *“Since 2009 we have offered discount to recruit Demo Cases”*
- (iii) *“This year 2013 we are offering a 30% discount to selected cases”*
- (iv) *“特別優惠 – DEMO Case 可享七折優惠”*
- (v) *“本中心自 2009 年起,以手術優惠折扣,招募合適的客人作 Demo Cases”*
- (vi) *“2013 年 Demo Cases 可享七折優惠”*

(Accordingly “Statements (i) to (vi) under the Fourth Case”)

84. There were also statements to the effect that discount would be offered to teachers, doctors and/or dentists in relation to hair transplant service provided by the Center:

- (vii) *“暑假教師九折優惠”*
- (viii) *“醫生和牙醫可享七五折優惠”*
- (ix) *“願意分享照片者可享七折優惠”*

(Accordingly “Statements (vii) to (ix) under the Fourth Case”)

85. There was a promotional statement as contained in a leaflet that could be downloaded in the Websites to the effect that a free consultation would be offered by the Center (“免費諮詢”).
86. There were also published in these websites and online materials the logos of American Board of Hair Restoration Surgery and International Society of Hair Restoration Surgery. We however do not find the publication of these logos impermissible.
87. In our view, these offering of discounts and free consultation (i.e. Statements (i) to (vi) and Statements (vii) to (ix), and the statement “免費諮詢” under the Fourth Case) aimed to solicit and canvass for patients and constituted impermissible practice promotions as per the *Dr Leung Ka Lau* case.
88. We have also looked at the website of www.lasercap.hk, which contained the promotion of the treatment of “LaserCap” and associated the Center as the “only authorised LaserCap Distributor” and/or “Authorized Physicians” in Hong Kong. While the www.lasercap.hk was under the name “LaserCap Hong Kong”, the descriptions on this webpage provide sufficient basis to believe that the contents on this web page were either prepared by the Center itself or at least with the authorization/sanction by the Center:
- (i) The webpage matched with the relevant description on the Website (“美絲更是全港唯一獲美國 *Dr Rabin* 授權發售激光治髮帽 *LaserCap*”)
 - (ii) The webpage provided introduction and contact information of the Center with wordings like “本中心位於醫務中心臨立的佐敦區...”
 - (iii) Under the heading “為什麼我們會銷售 *LaserCap*?”, the webpage contained the following: “可惜的是，很多脫髮患者來本中心尋求幫助的時候，他們的脫髮已經很嚴重，而且範圍太大，沒有足夠的頭髮覆蓋，不適宜植髮，每看到他們多麼失望的神情，深感愛莫能助。多年來，我們一直在尋找有醫學根據，及有臨床實証的其他補救方法，來幫助這些脫髮患者.....在2012年，本中心接觸到美國的 *Dr Shelly Feeidman* (<http://www.scottsdaleinstitute.net>)，他是 ABHRS 的創會會長，資深的植髮醫生。*Dr Freidtman* 是 *LaserCap* 的其中一個授權醫生，四年來從數百位 *LaserCap* 的

使用者，觀察到很好的脫髮改善，深信 LLLT 的療效。這引起了我們對 LLLT 的興趣.....”[Emphasis added]

(iv) The bottom of the webpage stated that “©版權守則 2012 香港美絲醫學”. The right hand side of the webpage also included “Our Location 美絲醫學 (激光活髮)”.

(“Statements of Lasercap Website”)

89. Viewed objectively, these statements (i.e. Statements of Lasercap Website) are promotional and canvassing in nature, strongly encouraging readers to seek consultation and/or treatment from the Center in order to enjoy the benefit and value of the LaserCap. They were designed to canvass for the purpose of obtaining patients and are impermissible under the 2009 Code.
90. The Defendant had therefore in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (b)(iii), (iv)(2) to (5), (v) and (vii) (but not charge (b)(iv)(1), (6) & (7)).
91. We however do not find the use or appearance of the Defendant’s name or title in this case was promotional. We therefore acquit the Defendant of charge (a).

Charges (b)(i), (b)(ii), and (b)(vi)

92. Charges (b)(i), (b)(ii) and (b)(vi) concern misquoting of qualifications in the Website and other online pages of the Center.
93. Regarding charge (b)(i)(1), the quotation of “Fellow Royal Australian College General Practitioner” (in Chinese “澳洲皇家家庭醫學學院榮授院士”) can be seen at the Website, www.drbertram.com, the Facebook Page and www.hairdoctor.hk.
94. We repeat our reasoning under paragraphs 70 to 72 above.
95. Regarding charge (b)(i)(2), reference to “FRACS 外科培訓 (1984) 紐西蘭 Dunedin Hospital” can be seen at www.drbertram.com, which was not a quotable qualification approved by the Medical Council according to the applicable version of the Advice.

96. Regarding charge (b)(ii), the description of the Defendant as “Hair Transplant Surgeon” and/or “植髮醫生” appeared on numerous pages of the Website and the other online pages of the Center:
- (i) In the YouTube video (dated 28 October 2010) of an interview with the Defendant, which was posted on the Website
 - (ii) In www.drbertram.com under the heading of “植髮生涯 (2006-2013)”
 - (iii) Reference to “*one full-time hair transplant surgeon*” at the Website
 - (iv) In a leaflet retrieved from the Website (“由具資歷的全職植髮醫生執行所有步驟”)
97. Quotations of “Hair Transplant Surgeon” and/or “植髮醫生” were not quotable qualifications approved by the Medical Council at the material times according to the applicable version of the Advice. More importantly, this is a misleading description with an intention to mislead the public that the Defendant was a specialist in hair transplant, when in fact (i) there had been no such specialty included in the Specialist Register; and (ii) the Defendant who is not on the Specialist Register cannot claim to be or hold himself out as a specialist. In the submission of the Defendant dated 29 December 2016, he admitted that hair-transplanting is not a specialty in Hong Kong (“植髮在香港不被視為專科，我更不是專科醫生，但絕對沒有任何人可挑戰我的經驗和國際地位。”)
98. Regarding charge (b)(vi), the following appointments or qualifications were quoted in the Website and were not allowed by the Medical Council at all material times:
- (1) “Diplomate of American Board of Hair Restoration Surgery”;
 - (2) “Elected Director of ABHRS”;
 - (3) “Member of International Society of Hair Restoration Surgery”;
 - (4) “ISHRS Certified Fellow”

99. The following qualifications were quoted in the website www.drbertram.com and were not allowed by the Medical Council at all material times:

- (1) “Director, American Board of Hair Restoration Surgery”;
- (2) “Co-Chairman, ISHRS Advanced Course”;
- (3) “Examiner, American Board of Hair Restoration Surgery”;
- (4) “Co-Chairman, ISHRS Live Patient Viewing”; and
- (5) “Co-Editor, ISHRS FORUM Bimonthly Medical Journal”;

100. We however do not find that the quotation of the following qualifications impermissible:

- (1) “Justice of Peace (1990-2007) State of New South Wales, Australia”;
and
- (2) “Honorary President (1990-1997) Sydney Elderly Welfare Association, Australia”

101. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charges (b)(i), (b)(ii) and (b)(vi).

Fifth Case (MC 21/424)

102. For the Fifth Case (MC 21/424), the Secretary received a letter of complaint dated 4 October 2021 with screenshots of the Website, raising complaints against the Defendant about the advertisements on the Website. The Secretary has also extracted printouts from Google, the Website and the Website of the Third Case on 6 October 2021 and 7 October 2021.

103. For charge (a), the title of “植髮醫生” can be seen on the website page of the Website of the Third Case. The title of “植髮醫生” was not a quotable qualification approved by the Medical Council at all material times and was misleading and impermissible description by a general practitioner not included in the Specialist Register.

104. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (a).

105. The following descriptions can be seen on the Website in relation to the Center:

“香港美絲醫學植髮中心

Dr Bertram Ng 本中心全職植髮醫生簡介

伍文輝醫生於澳洲、新西蘭及香港，接受外科訓練，執業 30 年，曾任仁安醫院分科診所總監；2006 年起轉從事植髮，率先將歐洲微創技術 FUE 引入香港。

2008 年獲 ISHRS 指派接受一年培訓，由國際植髮權威 *Dr Damkerng* 親自指導，成功考取 ISHRS Fellow 及 ABHRS Diploma 專業資格，現為 ABHRS 專業試主考官。

伍醫生致力改良 UR-FUT 及 FUE 技術，以能適合東方人的面部輪廓，以及毛囊特質，親自處理的植髮手術有千餘宗。

本中心植髮服務：

- 1- 髮線修復
- 2- 加密稀疏部位
- 3- 疤痕修復

地址：香港九龍佐敦道五號至秀商業大廈四、五樓

查詢預訂：852-3421 1138

電郵：info@hairtransplant.hk

網站：<http://www.hairtransplant.hk>”

106. We however do not find any of these statements were exaggerated and/or misleading. Accordingly, we will acquit the Defendant of charge (b).

On the Defendant's professional and/or financial relationship with the Company and/or the Center, and the Defendant's sanctioning, acquiescing in or failing to take reasonable steps to prevent the publication of impermissible practice promotions and misquotes of various qualifications

107. In finding the Defendant guilty of the charges, as stated above, we have also taken into consideration two common and inter-connected elements which regularly appear in various charges under the five cases:

- (i) The Defendant's professional and/or financial relationship with the Center and/or Company.
- (ii) The Defendant's sanctioning, acquiescing in or failing to take reasonable steps to prevent the publication of impermissible practice promotions and misquotes of various qualifications.

108. In almost all of the advertisements and promotional materials in the hearing bundles, the Defendant was featured and referred to prominently. There were photographs of him posing either alone or together with various practitioners and/or personnel, and description of his expertise in hair transplant and claims of his superior and unique skills sets and expertise.

109. The inter-relationship between the advertisements, interviews, websites and leaflets etc., coupled with the regularity and extent they were published and posted, points to the fact that it was a regular and coordinated online promotion campaign of the Center and the Defendant throughout a decade.

110. It is hard to believe that the Defendant being the key (if not the only) medical practitioner of the Center at all material times did not know that the Company advertised hair treatment services to the general public or the Company never directed or arranged patients to consult him for hair treatment services.

111. One of the Defendant's arguments is that "Dr. Bertram" is simply a standalone trademark, which does not equate to him being "Dr. Ng Man Fai". We do not accept this argument. All the evidence in the hearing bundles of the five cases consistently shows that the Defendant at all material times was the key figure of the daily operation of Center and the focus of the many promotions and advertisements of the Center. The inescapable conclusion is that the Defendant is precisely the "Dr. Bertram" of the Center who has a professional and/or

financial relationship with the Center and/or Company.

112. The Defendant argued that he was only an employee to the Center since August 2009, who was put on a “fixed salary without any bonus or commission”, completely “*removed from all administrative works and decision making, only as physician in charge of medical hair loss and hair transplant service*”. However, according to his submission dated 29 December 2016, the Defendant claimed that:

“本人往海外接受一年植髮培訓，2009 年起任職眉髮醫學移植中心，後因公司名被國內盜用，改名為美絲醫學植髮中心（“美絲”），本人祇是僱員身份。開業初期所有員工會多次開會，研究網頁及名片的設計及宣傳模式，因醫委會未有詳細的指引，恐防違反醫委會規定，最終決定抄襲仁安植髮中心網頁及名片的架構及內容……” [Emphasis added]

113. In his submission dated 29 December 2016, the Defendant provided a letter under the title “給醫務委員會主席劉允怡教授的一封信（草稿）”，with further claims that non-medical decisions (i.e. implying those on advertisement) were made collectively by all staff of the Center.
114. The Defendant’s statement that he was an “employee with fixed salary” means that there is in fact a financial and/or professional relationship between himself and the Center. The structure of the Center and/or the Company and all the circumstantial evidence makes it unimaginable that all the practice promotions in issue were prepared without his consent, sanction and/or acquiescence, as he was the key doctor of the Center (if not the only one) at the material times.
115. We find that it is unrealistic and artificial for the Defendant to claim in his submissions that he was merely an employee, completely “*removed from all administrative works and decision making, only as physician in charge of medical hair loss and hair transplant service*”.
116. The impermissible practice promotions and misquotes of qualifications by the Center and/or the Defendant in the Website spread across almost a decade. Circumstances imply that the Defendant must have had actual knowledge about these impermissible practice promotions and misquote of qualifications all along, but he failed to take any reasonable or adequate steps to prevent these publications.

117. In any case, sections 5.2.2.1 and 18.2 of the 2009 and 2016 Codes required the Defendant to exercise due diligence (but not merely nominal efforts), including acquainting himself with the nature and content of the advertising of the Center which he had a financial and/or professional relationship with, to ensure there was no contravention. We do not see what due diligence the Defendant had exercised over all these years.
118. The Defendant also had a personal responsibility under Sections 5.2.3.5 and 5.2.3.7 of the 2009 and 2016 Codes to ensure that the Website and other online materials comply with the guidelines under section 5.2.3 and Appendix D.
119. For the Fifth Case in particular, even though there is no suggestion that the Website belongs to the Company/Center, the printouts of the Website and Google search suggested that it is an electronic business directory open for submissions of advertisement by various companies (e.g. “刊登廣告功能”). Based on the layout of the website, and the fact that the information therein matched with similar contents on the Website in 2012 and 2021, it is reasonable to reach the conclusion that the information of the page was provided or consented by the Center as a form of advertisement or directory.
120. Google search result suggested the record of the Center at the Website was dated 21 December 2012, meaning that the page was allowed to exist for almost 9 years by the time it was raised in the complaint letter in October 2021. We do not see any action was taken by the Defendant to request or arrange for removal of the contents of the Center on the Website throughout these years.
121. In his submission dated 22 January 2015 under the First Case, the Defendant said that to show his repentance he had “*request[ed] the Company to revise wordings in the website*”. This is in effect an acknowledgment that the Defendant could have done more to prevent the practice promotions in issue.
122. In his submission dated 29 December 2016, the Defendant said that “本人承認無盡力阻止美絲醫學植髮中心抄襲仁安植髮中心網頁名片設計及宣傳模式，但堅決否認其他違規事件.....網頁分作兩部份：內容（Content）及外觀（Theme），美絲醫學植髮中心的網頁自2009至2016年內容都是差不多，祇是有幾次外觀上作了改動。” This is another acknowledgement from the Defendant that he does not dispute the contents of the Website between 2009 and 2016 were largely the same.

123. We are satisfied that at all material times under the five cases, the Defendant had a professional and/or financial relationship with the Center and/or the Company, and the Defendant had sanctioned, acquiesced in and/or failed to take reasonable steps to prevent the publication of impermissible practice promotion and misquotes of various qualifications.

Sentencing

124. The Defendant has a clear disciplinary record.
125. We bear in mind that the primary purpose of a disciplinary order is not to punish the Defendant but to protect the public from persons who are unfit to practise medicine and to maintain public confidence in the medical profession by upholding its high standards and good reputation.
126. On 23 June 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.
127. The Defendant told us in mitigation that the reason of his committing of the offences was for the best interest of his patients.
128. The offences committed by the Defendant are serious. They spanned over a long period of a decade.
129. Taking into consideration the nature and gravity of the disciplinary charges for which we find the Defendant guilty in all the five cases and what we have heard in mitigation, we shall make a global order:

- (i) in respect of all the convicted charges in all five cases relating to impermissible practice promotion, that the name of the Defendant be removed from the General Register for a period of 12 months;
- (ii) in respect of all the convicted charges in all five cases relating to misquote of qualifications, that the name of the Defendant be removed from the General Register for a period of 12 months;
- (iii) our removal orders in paragraphs (i) and (ii) above shall be concurrent; and
- (iv) the operation of our removal orders above be suspended for a period of 36 months.

Prof. TANG Wai-king, Grace, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong