

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Sze Hung (Reg. No.: M09396)

Dates of hearing: 21 and 31 May 2025 (Wednesday and Saturday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr CHUNG Kin-lai
Prof. CHAN Tak-mao, Daniel
Ms FUNG Dun-mi, Amy, MH, JP
Mr Vincent S. TSO

Legal Adviser: Mr Stanley NG

Defence Counsel representing the Defendant: Mr Alfred FUNG as instructed by
Messrs. Johnson Stokes & Master

Legal Officer representing the Secretary: Mr Gabriel CHEUNG,
Government Counsel

The Charges

1. The amended charges against the Defendant, Dr WONG Sze Hung, are:

First Case (MC 19/3062)

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

- (a) the publication of promotional information about himself or his practice in:*

- (i) an article published by Hong Kong Economic Times on 22 May 2019; and/or
 - (ii) an article published by Hong Kong Economic Times on 4 June 2019;
- (b) in or about November 2019, the publication of any of the following promotional information of his medical service(s) and/or physiotherapy service(s) provided by Kwai Tsing Community Health Management Hub (葵家社康匯), on the Facebook page, namely, “樹熊醫生”:
- (i) 樹熊醫生正式在旺角私人執業,若有任何骨科問題(如運動創傷、頸腰椎、關節痛、肩周炎、手腳問題),無任歡迎;
 - (ii) 若不幸運動受傷而想早些檢查,可考慮到旺角我的診所看看;
 - (iii) \$150 優惠物理治療(葵家社康匯); and /or
 - (iv) #真心幫市民#優惠物理治療#支持弱勢#醫善同行

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

Second Case (MC 20/2203)

“That in or about January to March 2020, he, being a registered medical practitioner,

- (a) *Through the Facebook page, namely, “樹熊醫生”(“Facebook Page”) sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of any or all of the following promotional post(s) and/or information on the Facebook page, whether directly or indirectly relating to his experience, skills and/or practice:*
- (i) *a post on 12 January 2020 which comprises, among others, the following statements: “經驗的累積,使超微創脊椎內窺鏡手術更趨完善安全。” and/or “順利完成超過百個手術,儀器及設備由韓國日本及德國引進,不斷更新,使手術更安全、更快更好。” and/or a video;*
 - (ii) *a post on 31 March 2020 which comprises, among others, the following statement: “多謝病人及家人信任,79 歲的伯伯兩星期前動手術,接受雙膝關節手術。14 天傷口好晒,行得好好了!” and/or 3 photographs; and/or*

- (b) *sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of biased information and/or information which is otherwise not presented in a balanced manner in relation to the nature and/or effects of endoscopic lumbar foraminotomy (ELF) surgery as set out in the post on the Facebook Page on 12 January 2020.*

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 name of the Defendant has been included in the General Register since 2 March 1994 and up to the present. His name has been included in the Specialist Register under the Specialty of Orthopaedics and Traumatology since 7 February 2007.

First Case (MC 19/3062)

3. On 27 November 2019, the Medical Council received an anonymous letter, complaining against the Defendant of practice promotion. A hyperlink to the Facebook page of the Defendant was provided in the letter. Attached to the letter included a website printout from the said hyperlink, which was a post from the Facebook page under the name of “樹熊醫生” (transliterated as “Dr Koala”) (respectively “Post A” and “Facebook Page”).

Second Case (MC 20/2203)

4. On 21 April 2020, the Medical Council received an anonymous letter, complaining against the Defendant of practice promotion. Attached to the letter included website printouts of three posts from the Facebook Page.
5. The Secretary refers us to the following:
- (i) a post from the Facebook Page dated 12 January 2020 (“Post 1”);
 - (ii) a YouTube video embedded in Post 1 entitled “*脊椎內窺鏡椎間孔切開術* (Endoscopic Lumbar Foraminotomy)” (“the Video”);

- (iii) a post from the Facebook Page dated 31 March 2020 (“Post 2”);
- (iv) a post from the Facebook Page dated 22 May 2019 (“Post 3”);
- (v) Post A from First Case (MC19/3062);
- (vi) an article published by Hong Kong Economic Times (“HKET”) on 22 May 2019 (“1st Article”); and
- (vii) an article published by HKET on 4 June 2019 (“2nd Article”).

Burden and Standard of Proof

- 6. 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.
- 7. There is no doubt that the allegations against the Defendant here are serious one. 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

First Case (MC 19/3062)

- 8. The Legal Officer for the Secretary offered no evidence for charges (a)(i), (a)(ii), (b)(iii) and (b)(iv).
- 9. We therefore acquit the Defendant of charges (a)(i), (a)(ii), (b)(iii) and (b)(iv).

10. The Defendant does not contest charges (b)(i) and (b)(ii). It however remains for us to consider and determine on the evidence of each of the two charges whether he is guilty of misconduct in a professional respect.

11. Post A was printed out on 28 November 2019. It contained the title “樹熊醫生在用 Facebook。想和樹熊醫生建立联系，就立即加入 Facebook 吧。”，followed by a link of “加入或登录” and the following contents:

“樹熊醫生

樹熊醫生正式在旺角私人執業，若有任何骨科問題（如運動創傷、頸腰椎、關節痛、肩周炎、手腳問題），無任歡迎

若不幸運動受傷而想早些檢查，可考慮到旺角我的診所看看；

有需要時，可提供緊急 MRI（星期一至六：9am-6pm）。

中心設施：

體檢中心、X光、電腦掃描、MRI，超聲波，骨質密度檢查；物理治療

電話預約：34058288（敬請預約）

Email: info@specialists.hk

位置：旺角雅蘭中心一期二十樓”

12. It is stipulated in the Code of Professional Conduct (2016 edition) (“Code”) that:

“5.2.2 Practice promotion

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 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.” [Emphasis added]*

13. The Defendant did not contest that he sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of promotional information in Post A. Post A contained details of the clinic address, email address, telephone number and operating hours. The words “樹熊醫生正式在旺角私人執業，若有任何骨科問題（如運動創傷、頸腰椎、關節痛、肩周炎、手腳問題），無任歡迎” and “若不幸運動受傷而想早些檢查，可考慮到旺角我的診所看看” were clearly for the purpose of promoting to the public the medical service(s) and/or physiotherapy services of the Defendant and/or his clinic.
14. According to the Defendant’s submission to the Preliminary Investigation Committee (“PIC”) of the Medical Council dated 26 May 2021, the information under charges (b)(i) and (b)(ii) were extracted from a post dated 28 August 2016 from the Facebook Page. The Defendant said at the time in 2016, he was not well versed in the relevant requirements in the Code and thought that it was permitted to post the information under charges (b)(i) and (b)(ii).
15. It is therefore the Defendant’s own admission that he had prior knowledge of the posting of the offending materials. The Defendant also said in the PIC submission that he had deleted Post A on 20 September 2020.
16. We are satisfied that the Defendant had sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of the offending promotional information as set out in charges (b)(i) and (b)(ii). In our view, the Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of professional misconduct under charges (b)(i) and (b)(ii).

Second Case (MC 20/2203)

17. The Defendant contests charges (a)(i) and (a)(ii), and does not contest charge (b). We will deal with charge (b) first.

18. Charge (b) is in relation to Post 1. The author of Post 1 was Dr Koala. Post 1 contained the following contents together with the Video:

“經驗的累積，使超微創脊椎內窺鏡手術更趨完善安全。
在高清鏡頭下，移除增厚的椎板及肥厚的黃韌帶後，便可見到神經根。
神經根受擠壓造成坐骨神經痛（病癥可以是針吉、火燒、痛苦、麻痺）
移除神經跟周圍的壓迫，神經痛便可逐步改善
註：順利完成超過百個手術，儀器及設備由韓國日本及德國引進，不斷更新，使手術更安全、更快更好。”

19. There is no dispute that the Facebook Page was operated by the Defendant under the pen name of Dr Koala at all material times.

20. It is stated in the Code that:

“5.2.1.1 Any information provided by a doctor to the public or his patients must be:-

...

(d) presented in a balanced manner (when referring to the efficacy of particular treatment, both the advantages and disadvantages should be set out).

...

6.1 It is appropriate for a doctor to take part in bona fide health education activities, such as lectures and publications. However, he must not exploit such activities for promotion of his practice or to canvass for patients. Any information provided should be objectively verifiable and presented in a balanced manner, without exaggeration of the positive aspects or omission of the significant negative aspects.” [Emphasis added]

21. Post 1 only mentioned the advantages of ELF surgeries. There was no mentioning at all of contra-indications, possible risks and complications of ELF surgeries.

22. The nature and/or effect of ELF surgeries published in Post 1 were not presented in a balanced and unbiased manner. The Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of professional misconduct under charge (b).

23. We now turn to consider charges (a)(i) and (a)(ii).

24. Section 5.2.2.1 of the Code makes clear reference that practice promotion is to be assessed on an objective basis.

25. In *Lee Yau Wing (Dr) v Medical Council of Hong Kong* [2022] 3 HKLRD 155, [2022] HKCA 801, the Court of Appeal held at paragraphs 24-25 that:

“[u]pon a proper construction, given that [the] code adopts an objective standard to determine what amounts to promotion of the doctor’s professional services (which is the very subject matter to be regulated under the code), it is plain to us that whether “the circumstances which would call for caution”, upon which a duty will be imposed on the doctor to take adequate steps to prevent promotion, must also be intended to be assessed on an objective basis.”

26. In *Dr Leung Ka Lau v The Medical Council of Hong Kong* [2015] 1 HKLRD 1219, [2025] HKCA 140, the Court of Appeal said at paragraph 25 that:

“Mr Chan seemed to accept that the Advertisements did have the effect of aiming to solicit or canvassing patients but argued that so long as Dr Leung did not have such an intention, then there is no breach of [5.2.1.2(d)]. In my view, the intention of Dr Leung is irrelevant because [5.2.2.1] refers to an objective standard in regard to advertising: the Council is to interpret practice promotion in its broadest sense which objectively speaking constitutes promotion of a doctor’s professional services, irrespective of whether he actually benefits from such publicity...”

27. We adopt the view of the Court of Appeal that what amounts to practice promotion have to be assessed on an objective standard; in other words, Post 1 and Post 2 will be looked at from an objective standpoint.

28. Looking at Post 1 objectively, it is reasonable to a reader to form the impression that it was Dr Koala who had accumulated experience in ELF surgeries, and had made ELF surgeries more successful and safe (“更趨完善安全”). It is also reasonable to a reader to form the impression that it was Dr Koala who had successfully completed more than 100 of such surgeries, and who had continuously brought in and upgraded equipment and facilities from Korea, Japan and Germany, hence making the surgery safer, faster and better. Such impressions to readers are evidenced in the comments from Facebook users underneath Post 1. There were numerous comments from different users asking Dr Koala about consultation and the fees. We are satisfied that the contents of Post 1 constitutes practice promotion of Dr Koala’s experience, skills and/or practice under section 5.2.2.1 of the Code.
29. As regards Post 2, the author was Dr Koala. Post 2 contains the following contents “多謝病人及家人信任，79 歲的伯伯兩星期前動手術，接受雙膝關節手術。14 天傷口好晒，行得好好了！” It also has 3 photographs, namely an X-ray of the patient’s knee joint; a clinical photo of the knee joint; and a photo, which seems to us to show a gift and/or card from the patient.
30. Viewed objectively, the contents of Post 2 bolstered the effectiveness of the knee surgery operated by Dr Koala on the 79-year-old patient. It even expressed Dr Koala’s gratitude for the patient’s and family’s trust in him, which in a way could be viewed as implying that his patient and family had trust in him. It also displayed in the photograph what seems to us to be the patient’s gift and/or card, giving the impression that the patient and/or family were grateful to him and showing their appreciation. We are satisfied that these contents constituted practice promotion of Dr Koala’s skills and/or practice under section 5.2.2.1 of the Code. These contents are also in breach of section 5.2.3.3, which prohibited the publication of letters of gratitude or announcements of appreciation from grateful or related persons identifying the doctor concerned.
31. We take note that Post 1 and Post 2 only mentioned Dr Koala’s name, but not the Defendant’s name. However, the reality of social media and the Internet is that followers or new readers either know or can with reasonable diligence find out who the page owner is.

32. Both the 1st Article and the 2nd Article made reference to the Defendant as Dr Koala. The Defendant's photograph appeared in the articles. For the 1st Article, the Defendant gave evidence that he told Hong Kong Economic Times to remove his association with Dr Koala's name only after being notified by the PIC of the potential breach of the Code. It is reasonably expected that the publication of these two articles would have brought the Defendant certain publicity, and made known to the public that he was Dr Koala.
33. Also, in our view, it is not difficult for followers or new readers to identify the Defendant as Dr Koala in the Facebook Page. Post 3 contained a link to the 1st Article, and a photograph, showing the Defendant in medical gown, and these words “樹熊醫生 黃仕雄”. Underneath the photograph were these words “屋邨出身的骨科仁醫樂助基層 20 年 黃仕雄醫生：醫人不應該為錢 – 香港經濟日報。” The Defendant's name was mentioned twice. Post A of the same Facebook Page contained clinic address, email address, telephone number, and operating hours.
34. Given the identifiable connections between Dr Koala and the Defendant and the reality of social media and the Internet, we are satisfied that Post 1 constituted practice promotion of the Defendant's experience, skills and/or practice, and Post 2 constituted practice promotion of the Defendant's skills and/or practice.
35. When applying the proportionality test, we will adopt the four-step analysis as set out by the Court of Final Appeal in *Hysan Development Co Ltd v Town Planning Board* [2016] 19 HKCFAR 372.
36. We accept the Secretary's submission that the legitimate aims of the restriction against practice promotion under the Code are for the protection of public health and the reputation of the medical profession.
37. We also bear in mind what the Court of Appeal said in *Kwok Hay Kwong v Medical Council of Hong Kong* [2008] 3 HKLRD 524, at paragraph 34 thereof:

“... In the context of medical advertising, there is in addition the important consideration that the “public” which is exposed to advertising will include particularly vulnerable members of society, namely, the sick and infirm. The interests of these persons must be particularly borne in mind.”

38. There should be no question that these are legitimate aims and the restriction imposed is rationally connected to these legitimate aims.
39. At one stage, the Defendant's Counsel submitted to us that as long as one publishes an issue of interest or of some interests to the public, then there is public interest to have the issue made known. This we do not agree. We however agree with the Defendant's Counsel who later submitted to us that to decide if an issue has any public interest, we have to look at the principle content of the publication and to the nature of the issue being put to the public at large. We must also add that we have to look at them all from a medical perspective.
40. We will take into account the Defendant's subjective intention of publishing Post 1 and Post 2 when applying the proportionality test.
41. As regards Post 1, the Defendant claimed that his intention of publishing this post was to tackle a common misconception about the safety of ELF surgeries, but not to promote his practice. However, according to Dr CHOW Hung Tsan ("Dr CHOW"), the Secretary's expert, there was no such common misconception back in 2020 because the public had low familiarity with ELF surgeries. We accept what Dr CHOW told us of the low familiarity of the public with ELF surgeries back in 2020. The Defendant has not proffered any expert evidence to rebut what Dr CHOW said. It is reasonable that if the public had little knowledge, there could not be a common misconception.
42. If the Defendant's aim was really to tackle a common misconception, the Defendant should have spelt out in clear words in Post 1 that there was such a common misconception. The use of these words "...更趨完善安全" and "...更安全、更快更好" was just not explicit to the general public to understand the message behind.
43. More importantly, we find above that the nature and/or effect of ELF surgeries published in Post 1 were not presented in a balanced and unbiased manner. Post 1 did not mention the contra-indications and the possible risks and complications of ELF surgeries.

44. The Video in Post 1 did not contain any audio or label and was difficult to understand by a layperson. We do not find it credible that the rationale behind the alleged justification that the Video was for the purpose of showing to the public how advanced the technology was and how clear the vision was with ELF surgeries.
45. Looking at the contents of Post 1 together with the Video in the round, from a medical perspective, we do not find that the information in Post 1 really dealt with a matter concerning bona fide public health education.
46. As regards Post 2, the Defendant claimed that his intention of publishing this post was to let elderly patients know that even they could undergo knee replacement surgeries and had a good and speedy recovery, but not to promote his practice. However, Post 2 merely cited the good and speedy recovery of one patient. There was no explanation of the surgery. Without any explanation, the general public would not possibly have knowledge of how to read or interpret the photographs of the patient's knee joint and the X-ray. There was no statistics of elderlies who had undergone knee replacement surgeries and had good and speedy recovery. We are not satisfied that the contents of Post 2 had any effect or value of bona fide public health education.
47. We have carefully balanced all the legitimate aims for restrictions against the Defendant's public interest grounds in his case. We have particularly borne in mind the vulnerable members of the society, namely the sick and infirm. Given that Post 1 was biased and imbalanced, and both Post 1 and Post 2 did not really deal with a matter concerning bona fide public health education, we do not consider the effect of giving publicity to the Defendant was altogether secondary. We do not consider the restriction against practice promotion in this case is a disproportionate and unconstitutional restriction on the Defendant's freedom of expression. We are also satisfied that a reasonable balance has been struck and the restriction against practice promotion will not result in unacceptably harsh burden on the Defendant.
48. The Defendant had in our view by his conduct 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) and charge (a)(ii).

Sentencing

49. The Defendant has a clear disciplinary record.
50. 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.
51. 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.
52. We give credit to the Defendant's professional contribution and the charitable work undertaken by him.
53. We also give credit to the character reference letters as submitted.
54. The Defendant told us that he had already permanently deleted the Facebook Page. We accept that the risk of re-offending is low.
55. Taking into consideration the nature and gravity of the disciplinary 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 charges we find him convicted in the First Case (MC 19/3062) and all the charges we find him convicted in the Second Case (MC 20/2203) that:-
 - (i) the Defendant's name be removed from the General Register for a period of 3 months; and
 - (ii) the operation of the removal order be suspended for a period of 12 months.

Remark

56. The name of the Defendant is included in the Specialist Register under the Specialty of Orthopaedics and Traumatology. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to his specialist registration.

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